

INQUIRY INTO THE DESTRUCTION OF FORMER FBI DIRECTOR J. EDGAR HOOVER'S FILES AND FBI RECORDKEEPING

PURDUE UNIVERSITY

MAR 23 1976

HEARING

BEFORE A

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SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HOUSE OF REPRESENTATIVES NINETY-FOURTH CONGRESS

FIRST SESSION

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INQUIRY INTO THE DESTRUCTION OF FORMER FBI DIRECTOR J. EDGAR HOOVER'S FILES AND FBI RECORDKEEPING

MONDAY, DECEMBER 1, 1975

HOUSE OF REPRESENTATIVES,
GOVERNMENT INFORMATION
AND INDIVIDUAL RIGHTS SUBCOMMITTEE
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 2247, Rayburn House Office Building. Hon. Bella S. Abzug (chairwoman of the subcommittee) presiding.

Present: Representatives Bella S. Abzug, Anthony Moffett, Andrew Maguire, Sam Steiger, and Paul N. McCloskey, Jr.

Also present: Eric L. Hirschhorn, counsel; Robert S. Fink, professional staff member; Theodore J. Jacobs, professional staff member; Anita Wiesman, clerk; and Thomas Sullivan, minority professional staff, Committee on Government Operations.

Ms. ABZUG. The hearing will be called to order.

These hearings come at a fateful moment in the history of the Federal Bureau of Investigation. We have recently witnessed a series of revelations about FBI activity, which shock and anger the American people.

An institution once revered and respected by most Americans has become an object of legitimate public, media, and congressional concern and inquiry.

The fears and suspicions about illegal FBI activity directed against individuals and groups exercising their first amendment rights have been found to be justified, even conservative, compared to the reality of FBI misbehavior in the past 30 years.

It is important that we document these abuses, but it is even more important that we begin to probe and understand why and how an agency dedicated to law enforcement could become a significant law-breaker.

One way to begin this understanding is to bring to public attention one aspect of the system which makes the FBI so powerful and so feared; namely, its control over an enormous amount of information on almost every American.

We therefore begin our hearings into FBI activities with a review of the FBI's recordkeeping systems.

It is also worth noting that the American people were kept in the dark about FBI wrongdoing because of the pervasive secrecy which for so long surrounded—and still surrounds—its activities.

What has helped to pierce this self-imposed cloak of secrecy is the Freedom of Information Act.

The Cointelpro revelations and other such disclosures came about because Congress gave the public a tool to use in its legitimate quests for information. And equally important, Congress did not then retire and forget about that law. It watched its operation carefully in the agencies of the Federal Government, and amended the law at the end of last year to remove some of the roadblocks which the agencies placed in the way of the public's right to information.

We will do this again, if necessary, and we will do it with the newly enacted Privacy Act if the agencies resist the law the way they did the Freedom of Information Act.

The matter we are to hear about today is reminiscent of the famous 18½-minute gap in the Watergate tape. We have a similar gap here. Most of the dozen file cabinets of records which were maintained in the office of the man who was described by Tom Wicker as the person "who wielded more power, longer, than any man in American history," are lost—possibly gone forever.

The circumstances under which this could have happened and what we can do to prevent it from happening again is the subject of our hearing.

We expect to analyze the systems of records and what has happened with recordkeeping, in order to further carry out our legislative and oversight responsibilities in regard to the Freedom of Information Act and the Privacy Act and our oversight responsibility in regard to the FBI.

We will first hear from Richard G. Kleindienst, who was Acting Attorney General at the time of J. Edgar Hoover's death.

We will then hear from Helen W. Gandy, who was Mr. Hoover's secretary and personal assistant for over 50 years until May 1972, when she retired shortly after Mr. Hoover's death.

Mr. Kleindienst, will you come forward?

[The witness was duly sworn.]

Ms. ABZUG. What position did you hold on May 2, 1972, when FBI Director Hoover died suddenly?

STATEMENT OF RICHARD G. KLEINDIENST, FORMER ATTORNEY GENERAL OF THE UNITED STATES

Mr. KLEINDIENST. I was the Acting Attorney General of the United States and the Deputy Attorney General.

Ms. ABZUG. When, and under what circumstances, did you learn of his passing?

Mr. KLEINDIENST. I learned it early in the morning of May 2, shortly after I got to my office, which would have been some time after 8 o'clock and before 9 o'clock that morning, to the best of my recollection.

Ms. ABZUG. Who informed you?

Mr. KLEINDIENST. I believe it was Mr. Tolson. My recollection is that it was Mr. Tolson, but I am not sure.

Ms. ABZUG. Who is Mr. Tolson?

Mr. KLEINDIENST. Mr. Tolson was then, I think, on some special assignment for the FBI. He had been the Assistant Director for many, many years.

Ms. ABZUG. Did you issue any orders upon learning of Mr. Hoover's death?

Mr. KLEINDIENST. I did.

Ms. ABZUG. What were those orders?

Mr. KLEINDIENST. To the best of my recollection, I issued the order that the offices of the Director be locked and secured until an Acting Director of the Federal Bureau of Investigation was appointed and could be responsible for the records of the FBI.

Ms. ABZUG. To whom was this order issued?

Mr. KLEINDIENST. To the best of my recollection, I gave that order to Mr. Tolson. I could have communicated it to Miss Gandy, and it is possible I gave it to Mr. Mohr. Today I cannot recall the person to whom I talked. I am certain it would have been one of those three persons.

Ms. ABZUG. Mr. Tolson?

Mr. KLEINDIENST. Mr. Tolson, Miss Gandy, and possibly Mr. Mohr.

Ms. ABZUG. Was this order issued verbally or in writing?

Mr. KLEINDIENST. Verbally.

Ms. ABZUG. Was there anybody else present when you issued this order?

Mr. KLEINDIENST. I do not believe so.

Ms. ABZUG. What was the purpose of issuing this order?

Mr. KLEINDIENST. The purpose of it was to accomplish two things in my mind. No. 1, I have always regarded the records of the FBI as confidential records unless made public pursuant to some legal requirement or order, and I did not want to have any of the records of the FBI left in a situation where nobody was responsible for them.

The Director of the FBI is responsible for those records, and as of the time of his death that morning, there was no Director of the FBI.

Second, Mr. Hoover had an abundance of personal memorabilia in his office. I felt that that should be secured so that the proper persons should get that.

Ms. ABZUG. Was the order you issued by phone?

Mr. KLEINDIENST. Yes; by telephone.

Ms. ABZUG. And do you not recall specifically to which person you gave that order?

Mr. KLEINDIENST. It would have been one or all of those three persons. My recollection 31½ years later is very vague on that.

Ms. ABZUG. Have you any information at all about the personal files of Mr. Hoover at the time?

Mr. KLEINDIENST. No.

Ms. ABZUG. Had you information that there were secret files that Mr. Hoover allegedly collected on the private lives of prominent people?

Mr. KLEINDIENST. No.

Ms. ABZUG. Do you have any reason to believe that at any time, in the course of your being Attorney General, that there were such files?

Mr. KLEINDIENST. No; I have no reason to believe that.

Ms. ABZUG. What was the abundance of personal memorabilia to which you just referred?

Mr. KLEINDIENST. He had glass cases full of awards and plaques and gifts, and other items which were given to him in recognition of his service as Director of the FBI. This would be obvious to you if you had ever been in his office.

Ms. ABZUG. I think that is important to every one of us. We collect a lot of things in our lifetime. Someone would be concerned, of course, when our life is over, but it would seem to me from what you have just said here this morning that as Attorney General you must have heard a lot of the things that a lot of us who are not Attorneys General heard, that there were other kinds of files of a very personal nature that have been referred to over the years, some of which were gathered in the course of duties, and I am sure, some of which were gathered in excess of the course of duties.

Had you no concern or interest in what those files might contain and to what uses they were put?

Mr. KLEINDIENST. Just walking through the front door of Director Hoover's office to the back part of his suite of offices, it was obvious to anybody that there were several offices full of files. You could see them as you walked by.

I would have regarded those as files of the Federal Bureau of Investigation, belonging to the Department of Justice, and the Government of the United States.

Most of the files of the FBI are highly confidential investigative files.

It was always my belief—and I believe the law confirmed that belief—that those files should remain confidential unless they are released or produced pursuant to some recognized legal process.

The Director of the FBI had died.

I wanted those files in those offices secured until there was another responsible Director appointed who would be responsible for the files of the FBI.

I therefore requested that the offices of the Director be secured that morning.

Ms. ABZUG. Did you ever get any compliance or any written confirmation of compliance with your order?

Mr. KLEINDIENST. I never pursued the matter. I never followed up to determine what had been done.

Ms. ABZUG. In other words, you were the Attorney General concerned with protecting the records of the Director of the FBI, and yet you issued an order and you never found out whether that order was complied with?

Mr. KLEINDIENST. No; I did not.

Mr. Pat Gray, I believe, was designated. I recommended him to be the Acting Director of the FBI. He had been nominated by the President to be the Deputy Attorney General under myself.

I do not know whether he was sworn in that day, but if he was not I believe it was the next day. He was a person for whom I had absolute trust and confidence. He had been a close deputy of mine in the Department.

At that time I was the Acting Attorney General, and Deputy Attorney General, and I just did not have the time to pursue every minutiae of direction. I just assumed also that my directions would have been followed.

Ms. ABZUG. Did you ever discuss this with Mr. Gray?

Mr. KLEINDIENST. I know I did not discuss it with him before because I do not believe he had been designated the Acting Director at the time I gave my order. He might have been.

If I had discussed it with him thereafter, I have no recollection of that conversation. I could have, but I do not recall.

Ms. ABZUG. I would like to try to clarify one thing.

Do you believe that your order had been carried out?

Mr. KLEINDIENST. Well, I assumed when I gave an order as Attorney General of the United States that it was carried out.

Ms. ABZUG. Have you since discovered that they were not carried out?

Mr. KLEINDIENST. I have no personal knowledge of it other than what I have been getting in the newspapers. So far as personal knowledge of my own, I do not know whether it was or not.

Ms. ABZUG. Apparently there has been some testimony and evidence that some of the files in the office which contained some personal effects were locked, but that the secretary's office which contained files was not locked.

Mr. KLEINDIENST. I do not know anything about that.

Ms. ABZUG. So, you have no knowledge as to what became of the Hoover papers, both official and personal?

Mr. KLEINDIENST. No; I do not.

Ms. ABZUG. Do you have any recollection of any discussion with Pat Gray about the files?

Mr. KLEINDIENST. I could have, but I have no specific recollection right now. Somebody would have to refresh my recollection. Perhaps Mr. Gray could.

Ms. ABZUG. I see.

Do you have any recollection of having any subsequent discussion with Helen Gandy?

Mr. KLEINDIENST. If I am not mistaken, Miss Gandy is here and would correct me. I really think that the only day I talked to her was on the day of Mr. Hoover's death. I might have talked to her in the next day or so with respect to arrangements for his funeral. But I believe, to the best of my recollection, this was the only time I talked to Ms. Gandy.

Ms. ABZUG. You are not certain that you talked to her about sealing the files?

Mr. KLEINDIENST. No; I am not.

Ms. ABZUG. You spoke to one person, but you are not sure.

Mr. KLEINDIENST. My recollection is that it was Mr. Tolson, but it very easily could have been Mr. Mohr.

Ms. ABZUG. Was this matter discussed with John Mitchell?

Mr. KLEINDIENST. No.

Ms. ABZUG. Do you have any recollection of discussing this matter with any other person?

Mr. KLEINDIENST. I have no recollection of discussing it with any other person.

Let me carefully say that this is 31½ years ago. In terms of the number of people that I dealt with and talked with under those circumstances, my recollection could be refreshed. But today I have no recollection of having discussed it with any other person.

Ms. ABZUG. Mr. Moffett.

Mr. MOFFETT. Thank you.

Mr. Kleindienst, can we agree that Mr. Hoover's death was viewed as a major event in this country's history, and certainly during that year?

Mr. KLEINDIENST. Yes; I think I would agree with that.

Mr. MOFFETT. It was certainly a very important event in many respects for the agency that you headed. Is that true?

Mr. KLEINDIENST. That is correct.

Mr. MOFFETT. So, it is not as though we are asking you what you had for breakfast on a certain day in May 1972.

It is not in that category.

I find it hard to believe that, as your letter to the subcommittee of November 13 indicated, and as you have testified here today, that you do not recall whether it was Mr. Mohr, Mr. Tolson, or Miss Gandy, to whom you gave the order. You have no recollection, is that correct?

Mr. KLEINDIENST. That is correct.

Ms. ABZUG. Without objection, the letter referred to will be made part of the record at this point.

[The letter follows:]

WELCH & MORGAN,
Washington, D.C., November 13, 1975.

HON. BELLA ABZUG,
Chairwoman, House Government Information and Individual Rights Subcommittee, Rayburn House Office Building, Room B-349 Washington, D.C.

DEAR MADAM CHAIRWOMAN: As a result of a conversation this date with Mr. Theodore J. Jacobs, professional staff member of the Subcommittee, and at his request, I am writing you this letter.

In the early part of the morning of May 2nd, 1972, and at approximately 9:00 a.m., after I had been advised of the death of Mr. Hoover, I verbally instructed either Mr. Tolson or Miss Gandy to secure and lock the offices of Director Hoover. I did this in connection with my position as the Acting Attorney General of the United States. I did not thereafter pursue the matter further and I do not know what action was actually taken. It is possible that I could have given the foregoing direction to Mr. John Mohr but I do not believe that I did. I did not discuss this direction with Mr. L. Patrick Gray prior to the time that I gave it. I do not believe that I talked to Mr. Mark Felt personally about this matter.

If I can be of any further help or assistance to you in this matter, please do not hesitate to call upon me.

Very truly yours,

RICHARD G. KLEINDIENST.

Mr. MOFFETT. You did not follow up on the order.

Granted, it is 31½ years ago. But this was not minutiae. This was not a minor thing. This was perhaps one of the most important things that happened when you were there. I would suggest that, and I think you would probably agree.

It seems to me it was also a time in which you were called upon to exercise some important responsibility, is that not correct?

Mr. KLEINDIENST. I felt that everything I did was important.

Mr. MOFFETT. Of course you feel that everything you did was important, but relatively speaking this was among the more important periods and among the more important events that took place while you were directing this agency, is that not correct?

Mr. KLEINDIENST. Yes, I think the death of Mr. Hoover was one of the most significant. One of them. There were quite a few while I was there.

Mr. MOFFETT. I am well aware of that, and I understand.

What you are saying to us is that you kept no personal diary and no notes?

Mr. KLEINDIENST. No.

Mr. MOFFETT. You have nothing to help you recollect?

Mr. KLEINDIENST. No.

After I became the Attorney General, there was a complete log of every telephone call that I made. If I had been the Attorney General then I could have looked on that day and it would have precisely stated the time and to whom I spoke. When I was the Deputy Attorney General I had no such log.

Mr. MOFFETT. But that is still a pretty high position, and you kept no log?

Mr. KLEINDIENST. No, I have a written diary where I keep a record of appointments, but it was not until I became Attorney General that a precise record was made of every outgoing and incoming telephone call.

Mr. MOFFETT. You just testified, Mr. Kleindienst—and I think I am quoting you correctly—"I wanted those files in those offices secured." You also in your November 13th letter to the subcommittee state: "I verbally instructed either Mr. Tolson or Miss Gandy to secure and lock the offices of Director Hoover."

To secure and lock the offices. Is it safe to assume that your intent was for the files in the administrative offices to be secured?

Mr. KLEINDIENST. I think that was my intent, but I do not believe I was specific in my directions.

Mr. MOFFETT. At the time you gave the order, is it not true, as I think the chairwoman has indicated, that within the news media there was and has been discussion of FBI conduct with regard to invasion of privacy, and lists on prominent persons?

Mr. KLEINDIENST. There might have been. There was no image in my mind—

Mr. MOFFETT. Were you aware that the Bureau was under scrutiny and under criticism in many quarters for its conduct in invading the privacy of citizens?

Mr. KLEINDIENST. Well, an agency of that kind is under criticism by somebody all the time.

Mr. MOFFETT. I understand, but is it not safe to say that there was widespread criticism of the agency even at that point in time?

I know we are getting into semantics here, and what you might call widespread and what I might call widespread might be different. But as an official in the Department, is it not safe to assume that you knew, or you could have concluded, that upon Hoover's death there would be questions raised about the files that many of us had been reading about in the newspapers?

Mr. KLEINDIENST. We have to go back 3½ years. The revelations that have occurred since have created an entirely different attitude in my mind than the circumstances as I knew them at that time.

Having been in Government, I am not overly impressed by unsubstantiated rumors and allegations. I knew of no fact in terms of my own experience or direct knowledge that suggested to me that I should have done anything more than I did at that time.

I thought I acted prudently under the unusual circumstances of the death. I wanted those offices secured until the Acting Director could be there to be responsible for them.

I have nothing particular in mind based on any knowledge of mine. I assumed that an order like that from the Attorney General of the United States would be followed. Immediately thereafter, a man with whom I had implicit confidence and trust who was going to be my Deputy Attorney General was designated the Acting Director, and I had absolute confidence that he would be responsible.

Mr. MOFFETT. What kind of conversation did you have with him at that time? We are talking about Mr. Gray.

Mr. KLEINDIENST. I do not think I had any conversation with him at the time I gave the order, because I do not think it was known he was going to be Acting Director.

As I said to the Madam Chairwoman, I had no recollection, although I could have had a conversation.

Mr. Gray, I was satisfied in my own mind, was a competent person to be Acting Director of the FBI, and I had a few other things to do as the Attorney General and Deputy Attorney General at that time.

Mr. MOFFETT. Were you curious as to what kinds of things were in the files?

Mr. KLEINDIENST. No.

Mr. MOFFETT. You never looked in the files, or had anyone else look into them?

Mr. KLEINDIENST. I might be an unique person but I do not waste my time with curiosity, and I also had a tremendous amount of work to do.

Mr. MOFFETT. Allowing for the fact that you may have viewed the charges made with regard to the agency's behavior in allegedly violating the rights of citizens as unsubstantiated, but is it not important that you, as an official of a Department, concern yourself with public perception about that agency? If there were a perception on the part of many that, in fact, an invasion of citizens' privacy and rights had been conducted by the agency, and if you were in a position of authority, would you not have seen it as your duty or obligation to follow up to at least clear up the matter?

Were you not concerned about the integrity of this Department?

Mr. KLEINDIENST. Was I concerned about the integrity of the Department? Yes, I was, at all times.

You have to go back again to the 3½ years. I had been a great defender of the Federal Bureau of Investigation. I still am as a matter of fact.

At that time I would say that the prevailing public sentiment would be 10 to 1 in favor of the FBI.

If I had ever been given evidence that was responsible to indicate that the FBI had abused its authority, I think I would have done something about it. I had no such evidence.

Mr. MOFFETT. You had not examined such evidence. You waited for it more or less to be put in your lap, but you did not really go out and pursue it.

Mr. KLEINDIENST. I did not perceive it as my duty as the Deputy Attorney General and the Attorney General of the United States to have a personal investigation of the FBI while I was there. I did not do that.

Mr. MOFFETT. Why not? Considering the allegations that were being made, why not?

Mr. KLEINDIENST. I was not impressed with the volume, the quality, and the credibility.

Mr. MOFFETT. You had not really examined it, had you?

You make the statement that you were not impressed with the volume, credibility and quality of evidence when you have not investigated it.

Mr. KLEINDIENST. We would have to be more precise as to what the allegations were. At least they were not sufficient in my mind.

Mr. MOFFETT. Have you since May 1972 made any effort to find out any more about what took place?

Mr. KLEINDIENST. No.

Mr. MOFFETT. I have no further questions, Madam Chairwoman.

Ms. ABZUG. Mr. Steiger?

Mr. STEIGER. Mr. Kleindienst, it is a pleasure to see you.

For whatever it is worth, Mr. Kleindienst, you have just been exposed to the kind of attitude that I have become kind of numb to on this committee. That is, what I call the hindsight syndrome. All that is of great moment today, should have been of great moment yesterday. You have been as much victimized by that as anyone in this room.

I would like to touch on one area which is common, I think, to all of the current concerns, and one that you would have particular expertise in.

I ask you this because I have known you for 20 years and I have the greatest respect for you, so I know that your answer will be meaningful because you are that kind of guy.

I wonder if you share my amazement at the total lack of willingness of being able to put values in the context of 1975 vis-a-vis the context even of 1970. For example, Mr. Moffett's questioning was a good example of that. Why did you not undergo, as Attorney General of the United States, a full and thorough investigation of the FBI because somebody had pointed a finger? Is it not a fact that throughout your experience in the Justice Department, and before that as a private citizen, you were aware of people pointing a finger at existing establishment efforts, particularly in the enforcement field?

How many of those kinds of things were you subjected to in the Justice Department?

I think this might be helpful to the committee if you could reveal to us what was the extent of the questioning of the Justice Department in total.

Mr. KLEINDIENST. I think anybody who is charged with the responsibility of the enforcement of the law in a free country like ours will always be subject to questioning, criticism, and examination.

I think that that is one of the things that makes our country great. This is our first amendment rights which I think are our most precious rights.

Following our first amendment rights, I think the next most important thing is the enforcement of the law.

There was many a time in the Department of Justice when I was the Deputy Attorney General or the Attorney General when credible evidence was given to me that would indicate that an officer of the Department had been guilty of misconduct. I would commence an administrative investigation immediately, and have him quietly refrain from the exercise of other duties, and when the investigation showed that he had violated some standard of the Department, he was dismissed and/or prosecuted and if it did not, he was reinstated to his position.

But it did not bother me that some people in our society criticized the Department of Justice or the FBI, or any other aspect of our machinery for the enforcement of the law.

As a matter of fact, I would be more dismayed if they did not, because it is that kind of examination and questioning that holds public officers to a high standard.

Again, I think you have to relate events as they were in May 1972 as compared to December 1975. I had no reason in my mind to compel me to investigate the FBI.

Mr. Hoover, who, in my opinion, in the totality of his 50 years of service to the U.S.A., was one of the greatest public servants this country ever had. That is the way I felt then.

Ms. ABZUG. Do you feel that way now?

Mr. KLEINDIENST. In the totality I do. I do not know all the facts other than what I get in the headlines of the newspaper. I will reserve my judgment on that. I think everybody should.

But the FBI was also a great institution to me. It still is. The career people in the FBI make it the finest such organization in the world. It is the most unpoliticized and almost nonpoliticized institution in the world.

So, you take me back to May 1972. I think I acted prudently on my own responsibility to secure those offices until another Director was there. I think there was one there that day or the next, so that there would be a responsible person who could respond to the people of the United States and to the Congress and the Attorney General.

That was my intent and purpose.

Mr. STEIGER. I have no further questions.

Ms. ABZUG. Mr. McCloskey?

Mr. MCCLOSKEY. Mr. Kleindienst, what was the period of time that you served as Attorney General of the United States?

Mr. KLEINDIENST. I was the Acting Attorney General from approximately March 1, 1972, to June 12, 1972, and then I was the Attorney General from June 12 until the day that Attorney General Richardson took the oath of office, which I believe was in the latter part of May 1973.

Mr. MCCLOSKEY. Mr. Kleindienst, when you were Attorney General on May 2, 1972—

Mr. KLEINDIENST. I was Acting Attorney General.

Mr. McCLOSKEY. When you were Acting Attorney General at that time, were you aware of the concern in the White House of the possibility that J. Edgar Hoover had blackmailed the Nixon administration from documents that he had in his possession?

Mr. KLEINDIENST. No, sir. I had no such awareness of any kind.

Mr. McCLOSKEY. Did anyone in your office have any awareness at that time, to your knowledge?

Mr. KLEINDIENST. The Office of Attorney General?

Mr. McCLOSKEY. In the Justice Department.

Mr. KLEINDIENST. Not that I know of. I know that I did not.

Mr. McCLOSKEY. After you became Acting Attorney General or Attorney General during the period of May 1972, did you receive any memoranda from John Dean about my particular opposition to the White House at that time?

Mr. KLEINDIENST. Mr. McCloskey, I could have but I have no recollection of it.

Mr. McCLOSKEY. I have a paper here that is dated December 1, 1971, a memorandum for the Attorney General from John Dean. This was for your predecessor, Mr. Mitchell. "Attached is some additional information which Jack has collected re McCloskey's operation. I have also passed a copy along to Jeb Magruder, blind copy to Gordon Strachan."

Did you have a file in your office after you took over as Assistant Attorney General on material collected on me?

Mr. KLEINDIENST. I do not understand.

Mr. McCLOSKEY. After you took over as Assistant Attorney General, did you have a file in your office on information collected about me?

Mr. KLEINDIENST. Not to my knowledge.

Mr. McCLOSKEY. Let me show you this memorandum. The reason I ask is because the memorandum says—

To the Attorney General from John Dean.

I assume some file was kept.

Mr. MOFFETT. Will the gentleman yield? Could we have copies of that?

[See p. 29 for the material referred to above.]

Mr. McCLOSKEY. Certainly.

Mr. KLEINDIENST. Mr. McCloskey, I have no recollection of having seen this. But if you want my opinion, this was given to Mr. Mitchell when he was the Attorney General and not in his capacity as Attorney General, although that is as it is written, but more from the standpoint of the forthcoming Presidential election. That would be my opinion.

Mr. McCLOSKEY. That is what I am concerned about. In the Attorney General's office there would be memorandum to the Attorney General relating to the political campaign. My question is merely when you took over as Attorney General, I assume you took over the files of the previous Attorney General.

Mr. KLEINDIENST. I doubt if a memorandum like this would have been put in the official files of the Attorney General.

Mr. McCLOSKEY. That is what we are trying to get at with this inquiry today. That is, what was in the official files and what was in the unofficial files.

What I want to ask you is that in May of 1972, when J. Edgar Hoover passed away, if the administration was not concerned as to what might be in his unofficial files relating to the administration?

Mr. KLEINDIENST. I was not. The best answer I have for your question about anything in my files is this. Let me tell you what I did when I left the Department of Justice.

I requested Mr. Sol Lindenbaum, who was then the Executive Assistant to the Attorney General and is still there, and who had served under three Attorneys General in that capacity, to go through all of my files which I had in the Department of Justice with my secretaries, and to have them segregate that which they felt were my personal correspondence files and put them in cardboard boxes, and to keep all the rest of them in the Department.

They did that. They sealed the boxes up, and they are up in my attic. I did not supervise or have anything to do with respect to that.

So, if there is a file about you in the Office of the Attorney General when I was there, it is still there, Mr. McCloskey.

Mr. McCLOSKEY. The point I am trying to get at is this. This is not intended in an adversary fashion.

I think it is typical of all people in high office that they would maintain certain records which could not be considered the official records of the Department, but would be their personal records, perhaps submitted to them in some other capacity, or perhaps relating to political matters, is that not correct?

Mr. KLEINDIENST. Yes. I had some files which were personal correspondence and some files that I guess you could call a political matter. They are in my home, boxed up.

Mr. McCLOSKEY. I think we all have such files.

I am thinking back to May of 1972. You were then Acting Attorney General. It was a few weeks before the Watergate affair broke.

But, it was after the Houston plan had been adopted by the administration and rejected at the request of J. Edgar Hoover.

Mr. KLEINDIENST. I was not involved in the formulation of the so-called Houston plan.

Mr. McCLOSKEY. Were you familiar with it?

Mr. KLEINDIENST. No; not to my recollection.

Mr. McCLOSKEY. The Houston plan involved a protected use of burglary, wiretapping with a warrant, breaking into the mails. It was adopted by the President and admitted that it was adopted by the President in 1970, and then suddenly, after 5 days elapsed, it was turned down because of the objections of J. Edgar Hoover that he did not want to carry out those activities.

The possibility existed that Mr. Hoover, if he were badgered too much by the administration, might make that information public. Did it not, in May of 1972?

Mr. KLEINDIENST. As a possibility?

Mr. McCLOSKEY. Yes.

Mr. KLEINDIENST. I do not know.

Mr. McCLOSKEY. The administration, from my standpoint, seemingly should have had some worries about what was in Mr. Hoover's private records in May of 1972.

Mr. KLEINDIENST. I have no worries. I do not know whether anybody else was worried.

Mr. McCLOSKEY. Did you have any knowledge of the Houston plan and the circumstances of its withdrawal in May of 1972?

Mr. KLEINDIENST. No; I was not involved in that.

Mr. McCLOSKEY. I have no further questions.

Ms. ABZUG. Let me ask you this.

Did anyone, either in the Department or outside of the Department, ever ask you about the Hoover files?

Mr. KLEINDIENST. Not to my recollection. You mean in a significant way?

Ms. ABZUG. There were files kept that should not have been kept that might prove damaging to various persons in high places?

Mr. KLEINDIENST. Nothing in any way.

Ms. ABZUG. One could question whether they were really official or secret?

Mr. KLEINDIENST. No.

Mr. McCLOSKEY. Will the chairwoman yield for another question?

Ms. ABZUG. Yes.

Mr. McCLOSKEY. This letter that we have in the file, I wonder if I might ask the staff about this letter to Mr. Gray, of May 11, 1972—

Reference is made to the attached anonymous communication addressed to you, and which in part concerns me.

Who was this letter to, and who is it from?

Mr. JACOBS. It was addressed to L. Patrick Gray from John P. Mohr. [The letter follows:]

MAY 11, 1972.

Mr. GRAY: Reference is made to the attached anonymous communication addressed to you and which in part concerns me. I would like to state in the beginning that I have been the subject of anonymous letters which I consider to be written by the lowest form of humanity. I think only cowards write anonymous letters.

The first paragraph of the letter stated that on Mr. Hoover's death, Mr. Tolson made a call from Mr. Hoover's residence to FBI headquarters, presumably to me, directing that all of the confidential files in Mr. Hoover's office be moved out and by 11:00 a.m. they were all taken to Mr. Tolson's residence and it is unknown whether they are still there. The point is made that I lied to you when I told you that secret files did not exist. It is alleged that such files do exist and that things are systematically being hidden from you.

In reply to this paragraph, the facts first of all are incorrect. The first knowledge that I received of Mr. Hoover's death was when I received a telephone call from Miss Gandy asking me to come to her office immediately, which I did. She told me she had received a telephone call from Mr. Tolson to the effect that Mr. Hoover was dead and Mr. Tolson asked if I would take charge of the funeral arrangements for Mr. Hoover and if I would be kind enough to notify the Acting Attorney General. I told her that I would. I promptly notified Mr. Kleindienst as you are well aware and to put it mildly, he was in a state of shock. He said he would immediately have to notify the White House.

Subsequently in talking to Miss Gandy, she told me that Mr. Tolson had instructed that any official files in Mr. Hoover's office were to be delivered to Mr. Felt and to my knowledge all official files in Mr. Hoover's office have been delivered to Mr. Felt. I understand from my conversation with Miss Gandy that the only thing she destroyed was the personal correspondence of Mr. Hoover and to my knowledge there are no other files in existence anywhere relating to the work of the Bureau. I have absolutely no knowledge of any files taken to Mr. Tolson's residence and according to my conversation with Miss Gandy, this allegation is absolutely false. As I have told you in person and as I would like to reiterate, I intend to cooperate with you 100% in your position as Director of the FBI and when I feel that I cannot do so, I will submit my request for retirement.

The anonymous letter also suggests that you identify the two Agents who worked exclusively on Mr. Hoover's investments and personal affairs. I know of no one so engaged with the possible exception of Special Agent Albert P. Gunsser, the Bureau's Chief Clerk, who has in the past prepared the tax returns for Messrs. Hoover and Tolson. There certainly is no misappropriation of government funds involved and it is strictly a case of Mr. Hoover and Mr. Tolson for security reasons utilizing Mr. Gunsser in the preparation of their tax returns. As far as the Internal Revenue Service is concerned, there is no hiding of the fact Mr. Gunsser is the actual preparer of these returns.

There is also a reference to the so-called FBI Shop, which I construe to mean the Exhibits Section, and that this section worked exclusively on repairs and renovations at Mr. Hoover's house. It is further alleged that "thousands of dollars in public funds were misdirected in this manner—for repairs at Hoover's house."

This allegation certainly stems from the motivation of a very small mind. Mr. Hoover during his lifetime was the subject of many threats and we found it necessary to take steps to guard the security of his residence. From time to time employees of the Exhibits Section were called upon to handle minor repair jobs at Mr. Hoover's home but whenever funds were involved in the installation of any equipment, Mr. Hoover personally paid for such equipment. I certainly can see nothing to quarrel about in the fact that Mr. Hoover did utilize the services of the Exhibits Section employees for this purpose. I should also like to point out that the Exhibits Section is fully engaged in the construction of official exhibits for the use of the FBI and the courts.

While I am at it, I would like to mention another matter which Mr. Felt has called to my attention and that is the attached column which appeared in the Washington Daily News on Saturday, May 6, 1972. Mr. Felt stated that you were possibly of the opinion that I was the one who might have leaked the information in this column to the press.

Nothing could be further from the truth. Certainly the column as I read it and construed it is derogatory concerning me and is absolutely inaccurate. I thought someone had leaked the column for the specific purpose of putting me on notice that my job was most insecure. I have since dissipated such a thought from my mind because I felt you are frank enough and honest enough that if you have any doubts about my honesty, you would tell me. I have no idea who is responsible for the column and as you well know, the facts are not correct. You did not call me to secure Mr. Hoover's personal, private office since this was done by Mr. Kleindienst and he requested that I prepare a memorandum when it was done to include the time it was secured. I prepared such a memorandum and the original is currently in Mr. Kleindienst's hand.

As an added thought, I want you to know that as far as I am personally concerned, there was no bitterness in my heart when you were appointed Acting Director of the FBI. Before your appointment, and I realize this may sound like sour grapes, I had said on numerous occasions that I had no aspirations for the position of Director of the FBI. That still goes.

I hope that the foregoing clearly explains the situation to you and if you have any question, I wish that you would immediately contact me.

JOHN P. MOHR.

FEDERAL BUREAU OF INVESTIGATION 177

Room 5525

Ext. 3333

5/16

, 1972

☒ Director
☐ Mr. Tolson
☐ Mr. Felt
☐ Mr. Rosen
☐ Mr. Mohr
☐ Mr. Bates
☐ Mr. Bishop
☐ Mr. Callahan
☐ Mr. Casper
☐ Mr. Cleveland
☐ Mr. Conrad
☐ Mr. Dalbey
☐ Mr. Miller, E.S.
☐ Mr. Ponder
☐ Mr. Soyars
☐ Mr. Waikart
☐ Mr. Walters
☐ Miss Holmes
☐ Miss Gandy
☐ Mrs. Skillman
☐ Mr. Adams
☐ Reading Room
☐ Mail Room
☐ Teletype Room
☐ Movement Unit
☐ Miss Weber
☐ Miss Eggers

Mr. Tolson	_____
Mr. Felt	_____
Mr. Campbell	_____
Mr. Rosen	_____
Mr. Mohr	_____
Mr. Bishop	_____
Mr. Miller, E.S.	_____
Mr. Callahan	_____
Mr. Casper	_____
Mr. Conrad	_____
Mr. Dalbey	_____
Mr. Cleveland	_____
Mr. Ponder	_____
Mr. Bates	_____
Mr. Waikart	_____
Mr. Walters	_____
Mr. Soyars	_____
Tele. Room	_____
Miss Holmes	_____
Miss Gandy	_____

☐ See Me ☐ For appropriate action
☐ Call Me ☐ For your information
☐ Send File ☐ Note and Return

Thank you very much -
 Bob has the letter to
 process - will send to
 you - have lab work
 to do.


 J. P. Mohr

DO-7

177

FROM

OFFICE OF ACTING DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

TO

OFFICIAL INDICATED BELOW BY CHECK MARK

MR. FELT _____ ()
 MR. MOHR _____ ()
 MR. ROSEN _____ ()
 MR. EATES _____ ()
 MR. BISHOP _____ ()
 MR. CALLAHAN _____ ()
 MR. CAMPBELL _____ ()
 MR. CASPER _____ ()
 MR. CLEVELAND _____ ()
 MR. CONRAD _____ ()
 MR. DALBEY _____ ()
 MR. MILLER, E.S. _____ ()
 MR. PONDER _____ ()
 MR. SOYARS _____ ()
 MR. WALKART _____ ()
 MR. WALTERS _____ ()
 MRS. NEENAN _____ ()

WJD PERSONAL
 DELIVER
 IN ENVELOPE.

SEE ME _____ ()
 NOTE AND RETURN _____ ()
 PREPARE REPLY _____ ()
 SEND MEMO TO ATTORNEY GENERAL _____ ()
 FOR YOUR RECOMMENDATION _____ ()
 WHAT ARE THE FACTS? _____ ()
 HOLD _____ ()

REMARKS:

See my comments on ur memo of 5-11-72 to me.
 Take steps to obtain lab report on the anonymous note to me.

After u have read my comments on ur memo to me please return.

Jm. 5-13-72
 8:50AM

Mr. McCLOSKEY. Mr. Kleindienst, were you familiar with a John Mohr in May of 1972?

Mr. KLEINDIENST. Yes.

Mr. McCLOSKEY. What was his status?

Mr. KLEINDIENST. He was one of the top men in the FBI. His exact title I do not know.

Mr. McCLOSKEY. What was the status of L. Patrick Gray at that time?

Mr. KLEINDIENST. On May 12, 1972, he was Acting Director of the FBI.

Mr. McCLOSKEY. And had been put in that position at your recommendation?

Mr. KLEINDIENST. Yes.

Mr. McCLOSKEY. Were you familiar with the letter from Mr. Mohr to Mr. Gray of May 11th, 1972, alleging that Mr. Tolson, on Mr. Hoover's death, made a call from Mr. Hoover's residence to FBI headquarters, presumably to Mr. Mohr, directing that all of the confidential files in Mr. Hoover's office be moved out, and by 11 a.m., they were all taken to Mr. Tolson's residence, and it is unknown whether they are still there?

Mr. KLEINDIENST. No; I have no present recollection of ever having knowledge of that.

Mr. McCLOSKEY. Did you ever discuss with Mr. Gray the possibility that records had been removed from Mr. Hoover's office immediately after his death?

Mr. KLEINDIENST. I could have, but today I have no recollection of that. I think Mr. Gray would have a better recollection than I.

Mr. McCLOSKEY. Let me read from the letter.

In reply to this paragraph

and this is from Mr. Mohr's memorandum—

the facts first of all are incorrect. The first knowledge that I received of Mr. Hoover's death was when I received a telephone call from Ms. Gandy asking me to come to her office immediately, which I did. She told me that she received a telephone call from Mr. Tolson to the effect that Mr. Hoover was dead, and Mr. Tolson asked if I would take charge of the funeral arrangements for Mr. Hoover, and if I would be kind enough to notify the Acting Attorney General. I told her I would. I promptly notified Mr. Kleindienst, as you are well aware, and to put it mildly, he was in a state of shock. He said he would immediately have to notify the White House. Subsequently he talked to Ms. Gandy. She tells me that Mr. Tolson instructed that the official files in Mr. Hoover's office were to be delivered to Mr. Felt, and to my knowledge all official files in Mr. Hoover's office have been delivered to Mr. Felt.

I understand from my conversation with Ms. Gandy that the only thing she destroyed was the personal correspondence of Mr. Hoover, and to my knowledge there are no other files in existence anywhere relating to the work of the Bureau.

Did your orders include the permission to destroy the personal correspondence of Mr. Hoover?

Mr. KLEINDIENST. My orders, to the best of my recollection were very, very short and very general. I did not even qualify it. I gave the order that the Offices of the Director be locked. That is all I said, to the best of my recollection.

Mr. McCLOSKEY. Miss Gandy was then acting on your instructions?

Mr. KLEINDIENST. Either Miss Gandy, Mr. Mohr, or Mr. Tolson.

Mr. McCLOSKEY. In your judgment, if personal correspondence was destroyed by Miss Gandy, would it have been a violation of your instructions?

Mr. KLEINDIENST. I would hate to characterize that, because my recollection was that I was not precise. It was not a detailed conversation. I just said the offices should be locked. I think I will have to leave that up to you to draw your conclusions.

Mr. McCLOSKEY. Your intention in having the office locked was to preserve, within that office, all of the records that existed at the time of your order. That was the very purpose.

Mr. KLEINDIENST. It was my intention to preserve the records of the FBI in a confidential way until a Director was there to be responsible for those records.

Mr. McCLOSKEY. If anyone had destroyed those records after they were locked up, it would have been a violation of your order, would it not?

Mr. KLEINDIENST. If anybody destroyed an official document belonging to the U.S. Government or the Department of Justice, or the FBI, that would have been a violation of my order, or the intent of my order.

Mr. McCLOSKEY. When you gave the order you did not intend to make any distinction between official records and unofficial records in the possession of the deceased, did you?

Mr. KLEINDIENST. I do not think I had the power to give any order except something that belonged to the U.S. Government.

Mr. McCLOSKEY. I appreciate that in 1972 it was not quite clear what an individual's writing was, as to whether it was his property or the property of the U.S. Government.

Mr. KLEINDIENST. That is what I did when I left the Government. I let somebody else make that determination.

Mr. McCLOSKEY. I do not mean to hold you to a retrospective view or judgment as to what the law was, and as to any records that were in Mr. Hoover's office when you ordered it sealed, but it seems to me that it is inescapable that anyone who went into that office after you had ordered it locked, and who destroyed records, would be violating the terms of your order.

Mr. MOFFETT. The letter from which the gentleman from California just quoted says that. At the end of the letter Mr. Mohr states to Mr. Gray, "You did not call me to secure Mr. Hoover's personal private office, since this was done by Mr. Kleindienst, and he requested that I prepare a memorandum when it was done to include the time it was secured. I prepared such a memorandum, and the original is currently in Mr. Kleindienst's hands."

You do not recall either requesting that or receiving such a memorandum?

Mr. KLEINDIENST. I could have, but I do not recall.

If I received such a memorandum, it would be in the files at the Department of Justice.

Mr. MOFFETT. I wanted to get that clear for the record

Lastly, I am going back to my earlier question about the allegations surrounding the FBI during this period before Mr. Hoover's death. Is it not true that break-ins—and I am going strictly according to recollection here—that during the break-in of the Media, Pa. FBI office, which took place before Mr. Hoover's death, that substantial material of an incriminating nature had been found? Is that your recollection?

Mr. KLEINDIENST. I think you are right. I think the Media break-in occurred prior to Mr. Hoover's death.

Mr. MOFFETT. And that it was not only Jack Anderson, but other people in the press, who reported this and indicated that there were substantial numbers of documents which were incriminating to the Bureau at that time?

Mr. KLEINDIENST. I do not recall that.

Mr. MOFFETT. My point is this.

Mr. KLEINDIENST. I think it is a question of point of view.

It was not so reported, in my opinion.

Mr. MOFFETT. Thank you.

Ms. ABZUG. Without objection, let the record show that at this point we inserted into the record exhibit No. 10, the subject being McCloskey's New Hampshire campaign.

[The material follows:]

*This report is the result of a 4 day Ulcering
investigation in New Hampshire.*

EXHIBIT NO. 10

SUBJECT: McCloskey's New Hampshire Campaign

1. As directed, an investigative team conducted a series of discreet inquiries and observations in New Hampshire with a view towards an evaluation of Paul N. (Pete) McCloskey's N. H. organization and plans to challenge the President in the March 1972 New Hampshire presidential preference primary. This activity took place during the period 11/18-11/21. The results are as follows:

A) ORGANIZATION

Volunteers - The McCloskey volunteer headquarters is located at 104 North Main Street, Concord, New Hampshire, Telephone # 683-224-1966. It is a one room storefront operation typical of a small town election headquarters.

There is a marked lack of activity at the headquarters, staffed primarily by youths in their middle to late twenties. In addition, there appears to be little interest expressed by the local Concord citizens with the current operation.

Pretext press interviews conducted at the location determined the identities and assignments of the present volunteer personnel:

Michael Brewer	Campaign Manager for
28 years of age	New Hampshire (Receives salary)
Field Reichardt	New England Coordinator
23 years of age	McCloskey Volunteers
Resides in Waterville, Maine,	(Receives Salary)
graduate of Colby College, Maine	
Former Chairman of Maine College	
Republicans	

Eric Schnapper 26 years of age	Aide to Campaign Manager
Charles Brereton 29 years of age Previous involvement as organizer in Peace Movements	Youth Organization-Voter Registration Coordinator for McCloskey Volunteers (Receives Salary)
Nancy Payne 24 years of age	Office Manager
John Mudge 22 years of age Resides Lyme, N. H. Grandfather founder of Mudge, Rose law firm	Regional Coordinator McCloskey Volunteers (See attachment)
Christopher Finch (no relation) 24 years of age	Regional Coordinator McCloskey Volunteers Campaign Worker
Kathy Gonzalez Woodside, Calif. (McCloskey's home district)	Campaign Worker

Youthful enthusiasm was expressed by all of the above during the course of pretext press interviews. The main focus of this headquarters is to supply logistical and contact support for a campus registration effort scheduled to become full blown in January. It was determined, however, that the organization's efforts to date have been discouraging. Encouraging support has only been achieved on four campuses to date. Deep concern was expressed over the expected organizational thrusts of Muskie, McGovern and Jackson in that their respective constituencies are closely aligned philosophically with McCloskey and resultingly threaten their campus voter registration efforts.

Close questioning of the above staff reveals the presence of money problems. All financing is controlled from the Washington headquarters. Within the last week mailing of campaign literature from the volunteer headquarters was curtailed because of a shortage of funds. Negligible amounts are coming direct to the volunteer operation.

The volunteers are placing their hopes upon an accelerated appearance schedule by McCloskey to begin after Congress adjourns for the holiday recess.

In any event, it is clear that McCloskey does not have a "McCarthy Youth Movement" going in New Hampshire at this time. Working against that potential is the lack of the war as an issue and the expected heavy thrusts of the Democratic candidates after the first of the year. Unless an incident or event occurs which can project McCloskey into the headlines and capture the imagination of the young, it is doubtful that he can gear the existing organizational volunteer framework (and that's all it is) to a successful effort.

BUSINESS COMMUNITY SUPPORT

Inquiry has determined that the below identified Concord businessmen are actively supporting McCloskey's New Hampshire campaign:

Malcolm White - Mayor of Concord

Concord newspapers report that White openly pledged support for McCloskey on August 9, 1971 during a ceremony opening the Volunteers for McCloskey headquarters.

J. Richard Jackman

Described as a prominent Concord Republican. Retired President of Rumford Press Inc., Chairman of N. H. delegation to '64 Republican National Convention; '64 Chairman of Draft Lodge Committee. Past international President of Administrative Management Association and Printing Industries of America; President of Concord Hospital; Member of City Council, Chairman of Housing Authority; Director of Concord National Bank.

Jackman's announced support of McCloskey in October caused significant enthusiasm amongst McCloskey's supporters in New Hampshire.

Paul O. Bofinger
East Concord Conservationist. Forrester for Society for the Protection of N. H. Forests. (Conservation is a sensitive issue in New Hampshire).

Robert H. Reno
State Chairman for McCloskey's campaign in primary. Lawyer in Concord law firm of Orr and Reno, 95 N. Main Street, Concord.

Reno has had no significant previous political experience.

An examination of the 12 member law firm indicates both the Mayor and Charles F. Leahy, Administrative Assistant to Governor Peterson are listed as practicing attorneys.

Reno's present focus is concentrated on obtaining 1,000 signatures of registered voters (500 from each congressional district) for submittal to the Secretary of State along with a \$500 filing fee for each district. The filing deadline is January 6, 1972. Local key political reporters were contacted in this regard and they expressed the opinion that McCloskey's operation could produce the required number of signatures, but that they may have difficulty.

It might well be desirable for Nixon political loyalists in New Hampshire to take a close look at the progress of this effort and if trouble in gaining the required amount of signatures becomes evident, consideration could be given to apply pressure to have the law firm (where pressure opportunities exist) drop its support. Conceivably, this tack could cause the entire operation to fold prematurely.

B) FUNDING

Clearly McCloskey is having serious money problems as mentioned above. His main sources to date have been identified as coming from New York and California. Norton Simon, who ran unsuccessfully against George Murphy in the California Senate primary of 1970 is a major contributor.

It is reported that Norton in mid-July provided \$50,000 in seed money for a nationwide effort.

Another major California contributor is Albert R. Schreck, Director of the San Francisco Art Institute.

On the East Coast McCloskey has sought and accepted what is described as "N. Y. Peace Money." A New York City party in the Spring of 1971 raised \$11,000 which was used to finance a trip to Southeast Asia. Some of those attending the party were:

Stewart Mott - Left wing philanthropist
Howard Steen - Dreyfus Fund
Sam Rubin - Investor

It was determined that former Kennedy staffer, Charles Daly, was instrumental in this particular effort. Daly accompanied McCloskey on the trip.

McCloskey has accepted numerous paid speaking engagements before a group known as the Business Executives Move for Vietnam Peace (BEM). Attached is a description of the organization.

In an effort to sustain the New Hampshire effort, McCloskey in October closed down his West Coast campaign headquarters and now operates only out of Concord and Washington. Resultingly, it is believed that while money is short, he will have enough to continue the N. H. primary battle.

NOTE: A small newspaper piece in October stated that former Kennedy TV producer, Charles Guggenheim, had agreed to work for McCloskey. This should be watched, Guggenheim is a pro.

ISSUES AND STRATEGY

McCloskey has assertedly finished his book for Random House. The book directs itself to his campaign themes as follows:

- 1) Peace in Vietnam
- 2) Truth in Government
- 3) Independence of the Judiciary
- 4) Maintenance of the Republican tradition
in Civil Rights

All signs indicate that with the war winding down McCloskey is focusing on Truth in Government as his main issue. This thrust will be primarily directed to the youth campus vote.

McCloskey is vulnerable, however. In an Evanston, Illinois, speech he came out strong in favor of the draft. He is also on record as supporting free abortions in a California speech. Assertedly, this position caused him Catholic vote problems in his district.

Much has been said in the New Hampshire media about the White House feud with Governor Petersen. The Governor is apparently annoyed over the preferred W. H. treatment given William Loeb of the Manchester Leader and the key campaign spot given to Lane Dwinell.

Wide coverage was given to the appearance of the Governor and N. H. state official Stuart Lamprey at the opening of McCloskey's headquarters.

A mending of the fences in this regard might well diffuse any adult protest vote which might be present and leave McCloskey solely with the highly competitive youth vote.

NOTE: While there was a close July liaison between McCloskey and Alard Lowenstein, little has been heard of this relationship since. Because of Lowenstein's success in '68 with the McCarthy forces, an alert should go up if he surfaces with McCloskey.

SUMMARY

A) McCloskey has only a volunteer youth framework presently in New Hampshire. The effort has not caught fire.

B) The highly organized and funded Democratic campaigns are expected to hurt McCloskey's efforts.

C) Funding will be a continual debilitating problem.

D) Truth in Government will be his main issue. McCloskey is vulnerable if an attack is desirable.

E) Republican infighting is helping McCloskey's efforts.

NOTE: Future action by the investigative team to be discussed privately.

BUSINESS EXECUTIVES MOVE FOR VIETNAM PEACE (BEM)

BEM is registered with the Congress of the United States as a Registered Political Lobby. It is self-described as a national organization which believes the war in Vietnam is contrary to the interests of the United States and that business executives should provide realistic leadership in foreign affairs. As of April, 1971, headquarters of this organization was located at 901 North Howard Street, Baltimore, Maryland.

Members of the BEM Executive Committee are Henry E. Niles, Chairman, Baltimore Life Insurance Company, Baltimore, Maryland; William F. Fischer, Jr., President, Fischer Machine Company, Philadelphia, Pennsylvania; Joseph E. McDowell, Chairman, Servomation Corporation, New York, New York; and Erwin Abner Salk, President, Salk, Ward & Walk, Inc., Chicago, Illinois.

Information furnished this Bureau indicates that members pay regular dues of \$100 per year, patron members pay \$1,000 per year, and a life membership is \$5,000.

BEM held a rally in Chicago, Illinois, on 10-1-71. Purpose of the rally was to focus attention that the Vietnam war continues, that people are being killed and to honor outstanding peace advocates. About 2,000 persons were in attendance and former U. S. Attorney General Ramsey Clark was Master of Ceremonies. Among those receiving the BEM American Peace Awards were Daniel Ellsberg, Joan Baez, Wayne Morse, Ramsey Clark, Ralph Abernathy, Benjamin Spock and Senator Fulbright. During the rally Joan Baez removed two American flags from their stands and placed them on the floor. Some of the audience protested. The flags were later restored to their stands by Clark and Congressman Paul McCloskey, Jr.

December 1, 1971

MEMORANDUM FOR: THE ATTORNEY GENERAL
FROM: JOHN DEAN

Attached is some additional information which Jack has collected re McCloskey's operation.

I have also passed a copy along to Jeb Magruder.

bcc: Gordon Strachan

SUBJECT: MC CLOSKEY'S APPEARANCE AT
DARTMOUTH UNIVERSITY CAMPUS
ON NOVEMBER 29, 1971

1. Investigative coverage was given this McCloskey appearance with the following results:

McCloskey's appearance lasted approximately one hour during which he gave a prepared 20 minute speech followed by a question and answer period. His main theme focused upon the threat of concentrated wealth to the electoral process; the abuses involved in campaign contributions and his personal support for the taxpayer dollar check off proposal presently before Congress.

McCloskey's appearance at Dartmouth resulted from an invitation offered by the university's student organization. The 850 seat auditorium was filled to capacity.

It is pointed out that similar invitations have been extended to other presidential candidates. In this context the turnout can be considered pro forma.

McCloskey appealed to the students to join his New Hampshire volunteer organization. Membership applications were distributed to all attendees. It was discreetly determined that a total of 10 volunteers signed up.

While McCloskey was warmly applauded at the conclusion of his remarks, he proved vulnerable in the question and answer period when asked to justify his support of the Draft. The reaction to his explanation of support was decidedly poor.

He was also closely questioned by pro-Israel students on his lack of support for Israeli arms from the U.S. Again, a poor reaction to his response was ascertained.

He admitted under questioning that he has received heavy financial support from Norton Simon of California.

It can be concluded that his Dartmouth appearance, while sympathetic in nature, failed to evidence any mushrooming support amongst campus youth.

NOTE: A follow-up visit to McCloskey's concord, N.H. volunteer headquarters, fails to indicate any change in the lethargic activity observed two weeks ago. There is still no evidence of increased funding or volunteer personnel.

It was also determined that a strategy session is presently ongoing in Washington, D.C. The topics of discussion assertedly are:

- A) How to counter the heavy Muskie, McGovern, Yorty N.H. campaigns.
- B) How to counter the apparent loss of Governor Peterson's support. (This is viewed as discouraging and suspected as coming from White House pressures)

Other steps, previously discussed, designed to develop interior intelligence are ongoing.

SUBJECT: STUDENT PENETRATION OF MC CLOSKEY VOLUNTEER HEADQUARTERS, 328 PENNSYLVANIA AVENUE, WASHINGTON, D.C. DURING WEEKEND OF DECEMBER 11-12, 1971

A Sandwedge engineered penetration of Mc Closkey's volunteer headquarters in Washington, D.C. took place during the weekend of December 11-12, 1971 with the following results:

The operative arrived at the headquarters on Saturday morning and was well received. There was a marked lack of activity during the entire day, with a total volunteer participation of only four persons. The operative was advised that there was little need for volunteer work at the Washington headquarters, but a dire need for volunteers to work at the Concord, N. H. headquarters. He was advised to call and speak with Nancy or Bruce at 603-224-1966.

The workers appeared to emphasize that the office is in dire need of money at the present. One of the volunteers indicated that his father had donated \$2,500 recently (because the workers identified themselves only by first name, the operative did not attempt to pursue the identity of the contributor).

Operative indicated a willingness to work for Mc Closkey in New York City. He was told that there were no Mc Closkey volunteer offices in New York City at this time and that the prime and only drives now ongoing with respect to campuses is within the New Hampshire area.

Operative determined that the 324 "C" Street headquarters, from which the main Washington campaign principals operate, was closed this weekend and the "C" Street staff was believed to be in Wisconsin dealing with political matters.

Operative had lengthy conversations with the four volunteers and it was determined that although there was enthusiasm, the reports coming back from N. H. indicated that things were not going well there. Lack of money and adult apathy appeared to be the main causes of the discouraging report. The volunteers were banking heavily upon Mc Closkey's increased schedule in N. H. beginning next week.

Throughout the entire day on Saturday there were no visitors to the office and no incoming phone calls. The workers busied themselves stuffing envelopes with leaflets. The operative assisted in this effort. He engaged in the same activity on Sunday morning and departed without incident.

In view of the foregoing, it would appear that best future use of this activity should be focused in N.H., especially during Christmas recess when allegedly the Mc Closkey effort will increase. Arrangements have been made accordingly and written results will follow.

THE WHITE HOUSE
WASHINGTON

Date 12/7/71

TO: JOHN W. DEAN, III

FROM: JOHN J. CAULFIELD

ACTION:

 Approval/Signature

 Comments/Recommendations

 For Your Information

File

!!!

REMARKS:

The A.G. should see these. They are very consistent with my report.

Ms. ABZUG. Let me ask one question.

Who did you notify in the White House of Mr. Hoover's death?

Mr. KLEINDIENST. I think I would have either talked to Mr. Haldeman or Mr. Ehrlichman. I might have attempted to talk to the President. I do not recall talking to him.

If I made a request to talk to the President, I would have been connected with Mr. Haldeman. I would have given him that information. I just do not recall whether I talked to the President or not. I do not think I did.

Ms. ABZUG. You mean if you talked to the President you would not remember?

Mr. KLEINDIENST. Usually I would remember. On transmitting a piece of information like that my recollection serves me that I probably gave that to Haldeman.

Ms. ABZUG. Was there any question asked of you by Mr. Haldeman or Mr. Ehrlichman or Mr. Nixon at that time about securing the files of Mr. Hoover?

Mr. KLEINDIENST. No.

I think the next question came up in the morning, which was my recommendation with respect to a successor to Mr. Hoover.

I think I recommended Mr. Gray.

Ms. ABZUG. You mean, on that same conversation?

Mr. KLEINDIENST. No; I think that came up later in the day.

Ms. ABZUG. Who was that conversation with?

Mr. KLEINDIENST. I do not remember.

It could have been Ehrlichman or Haldeman. I do not think I talked to the President directly about Pat Gray that day. I could have, but I do not believe so.

His logs would show that.

Ms. ABZUG. Thank you very much, Mr. Kleindienst.

Mr. KLEINDIENST. Thank you.

Ms. ABZUG. Miss Helen W. Gandy, please.

[The witness was duly sworn.]

Ms. ABZUG. Thank you very much, Miss Gandy.

How long were you associated with Mr. Hoover and in what capacity?

STATEMENT OF HELEN W. GANDY, FORMER PERSONAL SECRETARY TO J. EDGAR HOOVER

Miss GANDY. First as confidential clerk in July of 1919, and in steps from that time to Executive Assistant at the time of his death.

Ms. ABZUG. Is it a fact that virtually all documents that went into Mr. Hoover's office and all documents that came out of Mr. Hoover's office went through you?

Miss GANDY. In later years, yes.

Ms. ABZUG. During what years?

Miss GANDY. I would say from the late 1930's until his death.

Ms. ABZUG. From the late 1930's on?

Miss GANDY. Yes.

Ms. ABZUG. Until what time?

Miss GANDY. Until May 2, 1972.

Ms. ABZUG. Were you here in the room this morning when Mr. Kleindienst testified that he gave an order to seal Mr. Hoover's office?

Was that order given to you?

Miss GANDY. No.

Ms. ABZUG. Was that order conveyed to you in any form?

Miss GANDY. Yes.

Ms. ABZUG. Who conveyed it to you?

Miss GANDY. Mr. Mohr.

Ms. ABZUG. What is it that Mr. Mohr told you?

Miss GANDY. He told me that he was securing Mr. Hoover's offices.

Ms. ABZUG. What did he tell you to do?

Miss GANDY. I have no recollection of that.

Ms. ABZUG. Let me understand this then.

I gather Mr. Hoover had several offices, is that correct?

Miss GANDY. Pardon me?

Ms. ABZUG. There were several offices in Mr. Hoover's suite?

Miss GANDY. Yes.

Ms. ABZUG. How many offices were there?

Miss GANDY. Nine. That included the reception room.

Ms. ABZUG. What did you understand it to mean that the sealing off of Mr. Hoover's office meant?

Miss GANDY. That no one was to come in and take anything out.

Ms. ABZUG. All nine offices?

Miss GANDY. All offices of the executive suite.

Ms. ABZUG. How many were in that?

Miss GANDY. Mr. Hoover's private office, the conference room, and my office.

Ms. ABZUG. All right.

Was that all in the executive suite?

Miss GANDY. Yes.

Ms. ABZUG. Were all these offices sealed off after the order from Mr. Mohr?

Miss GANDY. I did not understand "sealed off." I do not understand what that means.

Ms. ABZUG. What was done?

Miss GANDY. Everything in them was not to be disturbed by anyone outside of the office.

Ms. ABZUG. Was anything locked?

Miss GANDY. All the files cases were locked in my office.

Ms. ABZUG. How many file cases were there in your office?

Miss GANDY. I do not remember exactly, but I believe there were 12. There may have been 12 or 14.

Ms. ABZUG. Did the conference room contain any cabinets?

Miss GANDY. No.

Ms. ABZUG. None in the Director's office.

When you talk then of sealing off, then you are not talking about locking the offices?

Miss GANDY. They locked from the outside always.

Ms. ABZUG. Were any of the locks changed?

Miss GANDY. No. Not to my knowledge.

Ms. ABZUG. What was done with the Director's office? Was that sealed off?

Miss GANDY. Yes.

Ms. ABZUG. No one could have access to it?

Miss GANDY. Yes.

Ms. ABZUG. Was there anything in that room?

Miss GANDY. His desk and the regular office furniture.

Ms. ABZUG. Were there any files in there?

Miss GANDY. No.

Ms. ABZUG. Were there any desk files?

Miss GANDY. Any desk files?

Ms. ABZUG. In the drawers?

Miss GANDY. No.

Ms. ABZUG. Then describe that room. Was it a room that had furniture but no files, is that your testimony?

Miss GANDY. No files.

Ms. ABZUG. What was done to the files in your office? Was anything different than had been done before in terms of locks?

Miss GANDY. They were always locked. The file cases in my office were always locked.

Ms. ABZUG. I am just trying to find out what was actually done in carrying out an order to seal the files in order to secure them.

Miss GANDY. We had two sets of files. Mr. Hoover's personal correspondence was one set, and the so-called official confidential files was the second set.

The official confidential files were sent immediately on Mr. Tolson's instructions, before he resigned, to Mr. Felt for safe keeping.

Ms. ABZUG. When was that?

Miss GANDY. That would have been—I could not say whether it was the day that Mr. Hoover died or the next day, but as soon as we had instructions to transfer them to Mr. Felt, that was done.

Ms. ABZUG. How did you separate the personal from the official and confidential files?

Miss GANDY. They were always kept separately.

Ms. ABZUG. How was that decided initially?

If they were always kept separate initially, how was that decided?

Miss GANDY. These were instructions from Mr. Hoover.

Ms. ABZUG. He marked the file either personal or official?

Miss GANDY. Yes; or indicated such.

Ms. ABZUG. Were any indexes kept to reflect that?

Miss GANDY. Yes.

We had one set of cards. It was a very simple filing system by name and cross reference. The official confidential index was kept on a pink card. The personal correspondence on a white card that is a 3 by 5 card.

Ms. ABZUG. These files were kept in the same cabinets, or were they separate?

Miss GANDY. They were all filed together.

Ms. ABZUG. When you transferred files to Mr. Felt, were they the files designated "Official and Confidential"?

Miss GANDY. Yes.

Ms. ABZUG. What happened then to the personal files?

Miss GANDY. I am sorry.

Ms. ABZUG. What happened to those files that were marked personal?

Miss GANDY. They were on Mr. Tolson's approval and with Mr. Gray's approval, destroyed as Mr. Hoover wanted done.

Mr. MOFFETT. Madam Chairwoman, a clarification please.

Ms. ABZUG. Let me just continue a moment.

Were they taken wholesale and destroyed, that is, all files marked personal?

Miss GANDY. They were destroyed systematically as I came to them. Is that what you mean?

Ms. ABZUG. There was a process. You went over these files?

Miss GANDY. Very carefully.

Ms. ABZUG. Where did you do that?

Miss GANDY. Partly in the office before I left. I was there until the 12th of May. Under Mr. Gray's authority and with his approval, after he had looked at some of the file drawers, the residue which had not been finished was taken to Mr. Hoover's home where I finished the disposal of them.

Ms. ABZUG. When you were going through these files between May 2 and May 12, did Mr. Gray ever stop by your office and inspect any of these files?

Miss GANDY. Every time he came to the office he stopped in. I think he inspected the files once when I asked him to.

Ms. ABZUG. How many times did he inspect those files?

Miss GANDY. Once I believe. That is my recollection.

Ms. ABZUG. What did he actually do?

Miss GANDY. He leafed through some of them.

Ms. ABZUG. Did he ask any questions about any of them?

Miss GANDY. No.

He asked me if there were any official files or official information in them, and I told him no, not at all.

I made absolutely sure when I was destroying them.

Ms. ABZUG. How do you define official and confidential?

Miss GANDY. They were files that had information which should not be available to any clerk who might be going through files. They were really official and confidential. They belonged to the Bureau.

Ms. ABZUG. Who had access to those files?

Miss GANDY. Mr. Hoover and myself. My alternate also.

Ms. ABZUG. Who?

Miss GANDY. My alternate.

Ms. ABZUG. Who was your alternate?

Miss GANDY. Mrs. Erma Metcalf.

Ms. ABZUG. I want to make certain that I have this clear.

You testified just a while ago that there were two kinds of files, that is, personal files and official and confidential files.

Were there any other files, or any other category of files?

Miss GANDY. Mr. Hoover's personal estate files.

Ms. ABZUG. Any other?

Miss GANDY. There were, I think, about a drawer and one half of Bureau files which were kept in our office under lock and key.

Ms. ABZUG. How were those files designated?

Miss GANDY. They had Bureau file numbers on them. We kept a list of those files.

Ms. ABZUG. Why were they kept in the office?

Miss GANDY. For safekeeping.

Ms. ABZUG. What was special about these files?

Miss GANDY. They were highly confidential Bureau information.

Ms. ABZUG. That was a fourth category, then?

Miss GANDY. Yes.

Ms. ABZUG. How were they indexed?

Miss GANDY. On a list.

Ms. ABZUG. What was the designation of that list?

Miss GANDY. I do not believe it had a designation.

Ms. ABZUG. How would anybody know?

Miss GANDY. The file room and the officials were cognizant of this.

Ms. ABZUG. I beg your pardon?

Miss GANDY. The Bureau officials and the officials of the Bureau knew these files were kept in the Director's office for safekeeping.

Ms. ABZUG. How many files of those were there?

Miss GANDY. I think about a drawer and one half.

Ms. ABZUG. How many file drawers were there in total?

Miss GANDY. I would say between—that is you are talking about the drawers?

Ms. ABZUG. Yes.

Miss GANDY. Around 48, perhaps. That is, 45 or 48. Some of the drawers were not full, of course.

Ms. ABZUG. Then, how many of those were Mr. Hoover's business files?

Miss GANDY. Eight file drawers.

Ms. ABZUG. And how many were official and confidential files?

Miss GANDY. About a drawer and a half.

Ms. ABZUG. How many were Mr. Hoover's personal files?

Miss GANDY. The balance.

Ms. ABZUG. You testified a minute ago that there were special files. How many of those did you have?

Miss GANDY. The special files?

Ms. ABZUG. Yes.

Miss GANDY. The Bureau files were kept for safekeeping and they were about a drawer and one half.

Ms. ABZUG. How many of these files were taken to Mr. Hoover's house?

Miss GANDY. Perhaps 30 or 32 file drawers.

There may not have been that many, because I did not keep a record. After this length of time I really could not say.

Ms. ABZUG. Why were they removed to his house?

Miss GANDY. So Mr. Gray could come in the offices.

Ms. ABZUG. Would you tell me how you could distinguish between the confidential files and the other Bureau files?

Miss GANDY. The official confidential were not recorded in the Bureau files. They did not have file numbers and serial numbers. The only index to those was the subject index or name index and the cross-references.

Ms. ABZUG. And the Bureau files had indexes?

Miss GANDY. Quite a complicated system.

Ms. ABZUG. What was generally contained in the official and confidential files?

What is the nature in those?

Miss GANDY. That would be hard for me to describe.

Ms. ABZUG. What has become of the indices?

Miss GANDY. The indices to the official confidential?

They went to Mr. Felt with the files themselves.

The personal file index was destroyed.

Ms. ABZUG. You indicated that you went through the files, that is, the personal files. Did anybody help you do that?

Miss GANDY. Mrs. Metcalf, until I left the Bureau helped me.

After that, no one.

Ms. ABZUG. When you went through those files what did you do with those files?

Miss GANDY. You mean manually?

Ms. ABZUG. Yes.

Miss GANDY. I tore them up and put them in cartons, and they were taken to the Washington field office to be either incinerated or shredded. I do not know what system there was at the time. I tore them up first.

Ms. ABZUG. Had you ever gone through any personal files in this manner before?

Miss GANDY. Mr. Hoover had himself started to go through his personal correspondence, and was indicating what was to be destroyed, and it was just about everything so far as he had gone.

Ms. ABZUG. How far had he gotten?

Miss GANDY. I think perhaps one drawer or maybe one drawer and one half.

Ms. ABZUG. Was there any system that you used, or Mr. Hoover used, or Mrs. Metcalf used to go through these files?

Miss GANDY. I would take so many that I thought he could take care of. He would indicate what was to be destroyed and what was to be kept.

Hardly anything was kept, that is, of what he went through.

Ms. ABZUG. I see.

How much was actually culled by you and Mrs. Metcalf after Mr. Hoover's death?

Miss GANDY. How much was culled?

Ms. ABZUG. Yes. Did you do it alphabetically?

Miss GANDY. She started with the front of the alphabet and I started with the back. We were hoping to meet before they had to be moved, but we did not make it.

Ms. ABZUG. Had Mr. Hoover gone through the files alphabetically before he died?

Miss GANDY. Yes.

Ms. ABZUG. How far did he get?

Miss GANDY. I could not remember now. It was very few.

Ms. ABZUG. Where did Mrs. Metcalf start?

Miss GANDY. I would say with the second drawer perhaps. And whether it had A's and B's in it I do not know now.

Ms. ABZUG. You think it did not have As and Bs?

Miss GANDY. It probably did not.

Ms. ABZUG. She may have started therefore at C, is that your testimony?

Miss GANDY. Yes.

I could not say accurately however.

Ms. ABZUG. I have here a copy of a memorandum commonly referred to as the black bag memorandum which is dated July 19, 1966.

I note on the routing stamp that a check is marked off next to your name and below your name are the initials "P.F."

Are you familiar with that?

Miss GANDY. Yes.

That was shown to me by members of the Church committee.

Ms. ABZUG. You have seen this? Do you care to see it at this time?

Miss GANDY. No; I remember it.

Ms. ABZUG. Without objection, it will be inserted into the hearing record at this point.

[The material follows:]

UNITED STATES GOVERNMENT

ROUTE IN ENVELOPE

Memorandum

TO : Mr. C. D. DeLoach

DATE: July 19, 1966

FROM : W. C. Sullivan

DO NOT FILE

Tolson	_____
DeLoach	_____
Casper	_____
Callahan	_____
Conrad	_____
Felt	_____
Gale	_____
Rosen	_____
Sullivan	_____
Tavel	_____
Trotter	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

SUBJECT: "BLACK BAG" JOBS

1--Mr. DeLoach
1--Mr. Sullivan

The following is set forth in regard to your request concerning what authority we have for "black bag" jobs and for the background of our policy and procedures in such matters.

We do not obtain authorization for "black bag" jobs from outside the Bureau. Such a technique involves trespass and is clearly illegal; therefore, it would be impossible to obtain any legal sanction for it. Despite this, "black bag" jobs have been used because they represent an invaluable technique in combating subversive activities of a clandestine nature aimed directly at undermining and destroying our nation.

The present procedure followed in the use of this technique calls for the Special Agent in Charge of a field office to make his request for the use of the technique to the appropriate Assistant Director. The Special Agent in Charge must completely justify the need for the use of the technique and at the same time assure that it can be safely used without any danger or embarrassment to the Bureau. The facts are incorporated in a memorandum which, in accordance with the Director's instructions, is sent to Mr. Tolson or to the Director for approval. Subsequently this memorandum is filed in the Assistant Director's office under a "Do Not File" procedure.

In the field the Special Agent in Charge prepares an informal memorandum showing that he obtains Bureau authority and this memorandum is filed in his safe until the next inspection by Bureau inspectors, at which time it is destroyed.

FJB/pen

(2) pen

CONTINUED -- OVER

Memorandum to Mr. C. D. DeLoach
 Re: "BLACK BAG" JOBS

[REDACTED]

We have used this technique on a highly selective basis, but with wide-range effectiveness, in our operations. We have several cases in the espionage field, [REDACTED]

[REDACTED]

Also through the use of this technique we have on numerous occasions been able to obtain material held highly secret and closely guarded by subversive groups and organizations which consisted of membership lists and mailing lists of these organizations.

This applies even to our investigation of the [REDACTED]. You may recall that recently through a "black bag" job we obtained the records in the possession of three high-ranking officials of a [REDACTED] organization in [REDACTED]. These records gave us the complete membership and financial information concerning the [REDACTED] operation which we have been using most effectively to disrupt the organization and, in fact, to bring about its near disintegration.

[REDACTED]

[REDACTED]

[REDACTED]

CONTINUED -- OVER

[REDACTED]

[REDACTED]

2

Memorandum to Mr. C. D. DeLoach
Re: "DELOACH-BAG" JOSS

[REDACTED]

In short, it is a very valuable weapon which we have used to combat the highly clandestine efforts of subversive elements seeking to undermine our Nation.

RECOMMENDATION:

For your information.

4/ *No more such techniques
must be used.*
h

January 6, 1967

~~CONFIDENTIAL~~

MEMORANDUM FOR MR. TOLSON
AND MR. DE LOACH

I note that requests are still being made by Bureau officials for the use of "stitch bag" techniques. I have previously indicated that I do not intend to approve any such requests in the future, and, consequently, no such recommendations should be submitted for approval on such matters. This practice, which includes also surreptitious entrances upon premises of any kind, will not meet with my approval in the future.

Very truly yours,

John Edgar Hoover
Director

JEH:EMM (7)

Ms. ABZUG. What does the initial "P.F." mean?

Miss GANDY. Personal file.

Ms. ABZUG. As far as you know, the black bag memorandum is marked personal file, is that correct?

Miss GANDY. Yes; it was.

Ms. ABZUG. Was it ever transferred?

Miss GANDY. I am sure it was, because it was in the official confidential files, I believe.

I have heard since that it was in the official confidential files when they were turned over to Mr. Felt.

Ms. ABZUG. Who transferred them?

Miss GANDY. I did.

Ms. ABZUG.—

Miss GANDY. You mean, who transferred them from the personal to the official confidential?

Ms. ABZUG. Yes.

Miss GANDY. I have no idea at this date, but it is obvious on the face of it that it would belong in the official confidential files.

Ms. ABZUG. Why was it originally classified personal?

Miss GANDY. I have no idea.

Ms. ABZUG. Was that done by Mr. Hoover?

Miss GANDY. I have no idea about that.

Ms. ABZUG. Was it done by you?

Miss GANDY. It could have been, but I have no recollection of it.

Ms. ABZUG. What else was transferred from the personal file to the official and confidential file?

Miss GANDY. I have no idea.

Ms. ABZUG. You were culling the personal files. You were destroying them; is that right?

Miss GANDY. Yes.

Ms. ABZUG. You came across his memorandum that I just mentioned?

Miss GANDY. No.

Ms. ABZUG. You did not?

Miss GANDY. No.

Ms. ABZUG. Is it your testimony that that had already been transferred?

Miss GANDY. Yes.

Ms. ABZUG. You have no idea how or why that was transferred?

Miss GANDY. Not at this date; no.

Ms. ABZUG. Who would have changed it from personal to official and confidential?

Miss GANDY. I could have. Mr. Hoover could have.

Ms. ABZUG. Who would type the card?

Miss GANDY. Mrs. Metcalf, more than likely.

Ms. ABZUG. Do you have any idea how many personal files were kept as P.F. files and then transferred to O.C. files?

Miss GANDY. I have no knowledge, but I doubt if there were more than the one.

Ms. ABZUG. How many would you say had been transferred?

Miss GANDY. I have no idea.

I know that when I went through the personal correspondence I found no Bureau material at all.

Ms. ABZUG. That means that you destroyed every single piece of material that was marked "P.F."?

Miss GANDY. All of it would not have been marked, because it would be personal correspondence.

Ms. ABZUG. But if it is marked "P.F." it would be personal file?

Miss GANDY. Yes; that is correct.

Ms. ABZUG. My question is this: Was everything in the personal file destroyed?

Miss GANDY. Everything in the personal file, as I reviewed them before I destroyed them, was destroyed with the exception of a folder on the dogs. I kept the file on the dogs' pedigree for Mr. Tolson's information. There may have been a folder about maintenance of Mr. Hoover's house. I would have kept that. That is the kind of material that was in the personal files, and also his personal correspondence of course.

Ms. ABZUG. Did you look at every single personal file?

Miss GANDY. Every single page and every single personal file.

Ms. ABZUG. I am going to read you a list of names and subjects, and in each case I would like you to comment, tell me if there was anything in the personal files on any of these people or subjects.

Mail openings?

Miss GANDY. No.

Ms. ABZUG. Informants?

Miss GANDY. No.

Ms. ABZUG. Wiretappings?

Miss GANDY. No.

Ms. ABZUG. Black-bag jobs?

Miss GANDY. No, indeed.

Ms. ABZUG. What about the black-bag job memorandum which indicates that it was a personal file?

Miss GANDY. It looks like a mistake on my part; that is, to put the P.F. on it when it should be O.C.

Ms. ABZUG. Where did you actually put it?

Where did you put it when you filed it?

Miss GANDY. I have no idea at this date. The date of that memorandum is what?

Ms. ABZUG. The date of the memorandum is July 19, 1966.

Miss GANDY. How in the world could I remember that?

Ms. ABZUG. That would be difficult.

Miss GANDY. At 78 years old that would be difficult.

Ms. ABZUG. You are doing remarkably, Miss Gandy; I compliment you.

Let me ask you this then.

I have asked this in several different ways, but there are a number of files which apparently were previously filed in the personal files, and then were transferred to become official and confidential.

Is it your testimony that those files were ordered transferred directly from personal to official?

Miss GANDY. Yes.

Ms. ABZUG. Do you have any idea of the frequency with which this took place?

Miss GANDY. No.

Ms. ABZUG. Was a review made every 2 months or every 3 months?

Miss GANDY. There would have been no schedule for that.

Ms. ABZUG. Would you recall among Mr. Hoover's personal files a file designated "Elizabeth Bentley Testimony"?

Miss GANDY. No.

Ms. ABZUG. Is there anything like the black-bag memorandum that you remember being in the personal files?

Miss GANDY. No.

Ms. ABZUG. Anything about "Bureau recording instruments"?

Miss GANDY. No.

Ms. ABZUG. On February 27, 1975, in his testimony before the House Subcommittee on Civil and Constitutional Rights, Attorney General Levi indicated that official and confidential files contained derogatory and nonderogatory caterogies.

Do you have any such recollection?

Miss GANDY. I have no knowledge of that, no.

Ms. ABZUG. Where would he get that information?

Miss GANDY. I have no idea, because it has been 3½ years that they were turned over to Mr. Felt. I have no idea what happened to them after that, because I left the Bureau.

Ms. ABZUG. You have no such recollection?

Miss GANDY. No.

Ms. ABZUG. How long a time did you work in Mr. Hoover's home?

Miss GANDY. I think from the middle of May until perhaps July.

Ms. ABZUG. You testified that you destroyed most of the files—that is, all of the files that were marked "Personal"—except one or two items?

Miss GANDY. And, of course, his estate files.

Ms. ABZUG. Did any of those refer to Bureau matters?

Miss GANDY. I destroyed nothing that would pertain to Bureau matters. I was very careful to be sure that nothing of that had gotten into the personal file.

Ms. ABZUG. I am going to read you a list of eight files by file title found in the O.C. files. The Senate Select Committee found these had been filed in former FBI Director Hoover's personal files.

I am going to read them to you. I am going to ask you what your recollection is concerning these files.

Miss GANDY. And the dates?

Ms. ABZUG. Yes. These were files that were originally marked "Personal Files," and were subsequently transferred, or at least the designation personal file or "P.F." crossed out according to the file, and then marked "O.C."

One. "Agreement between the FBI and the Secret Service concerning Presidential protection. 10/20/71, per J.E.H."

Miss GANDY. That would be October, would it not?

Ms. ABZUG. Yes.

Miss GANDY. I have no recollection.

Ms. ABZUG. "Bentley, Elizazeth testimony per J. E. H. 11/1/71."

Miss GANDY. I have no recollection.

Ms. ABZUG. No. 3. "Black Bag Jobs per J. E. H. 11/4/71."

Miss GANDY. Nor that. That is, as to why or when it was transferred.

Ms. ABZUG. You originally testified that you were familiar with that memorandum.

Miss GANDY. Yes; I had been shown that memorandum.

Ms. ABZUG. But you do not know why it was transferred from personal to the official and confidential?

Miss GANDY. I could not say why. I could say why I think it was, why I am sure it was.

Ms. ABZUG. Then why was it originally marked "Personal File"?

Miss GANDY. That I do not know.

Ms. ABZUG. "Fred B. Black, Jr., per J. E. H. 11/4/71."

Miss GANDY. That may have been when he was going through the files inasmuch as they would be in the B's, would they not?

Ms. ABZUG. I beg your pardon?

Miss GANDY. That would be in the B's.

Ms. ABZUG. Right.

Miss GANDY. It is very possible that he indicated that those were to be transferred at that time. That gives me a better picture of it.

Ms. ABZUG. I see.

The next one is No. 6, which is "Bombing at the U.S. Capitol." The initials "O.C." were typed under the "P.F.," and in this case there was no indication that this was done pursuant to anybody's instructions. Are you familiar with that?

Miss GANDY. Was it typed or written?

Ms. ABZUG. Typed.

Miss GANDY. No; I would have no recollection of it.

Ms. ABZUG. No. 7 is Bureau recording instruments. This has a new file label pasted over another label which still had the initials "P.F." on it. Are you familiar with that?

Miss GANDY. No.

Ms. ABZUG. The eighth one is E. R. Butz. "O.C." was typed over the letters "P.F." There were no notations on this file to indicate that it was placed in the O.C. files pursuant to anybody's instructions. Do you have any recollection of that?

[No response.]

Ms. ABZUG. Most of the files were originally marked "P.F." but according to the notations they were transferred pursuant to the instruction of J. E. H., and as you pointed out, these were in the letter B which you believe Mr. Hoover did himself.

The question is this. How many letters did you cover? That is, in your effort of going through those files.

Miss GANDY. I have no idea.

Ms. ABZUG. Roughly.

Miss GANDY. Roughly I would say perhaps the middle of the index, whatever that would be.

Ms. ABZUG. From Z back to what letter?

Miss GANDY. Perhaps the J's. This is just a supposition.

Ms. ABZUG. Of all the personal files, you found none that should have been in another file?

Miss GANDY. Not one.

Ms. ABZUG. Therefore, all those files were destroyed?

Miss GANDY. Yes. I understand your concern.

Ms. ABZUG. What is my concern?

Miss GANDY. That there could have been other files.

Ms. ABZUG. Do you think there were?

Miss GANDY. I know there were not. All I can give you is my word.

Ms. ABZUG. Did you have guardianship of the files at all times?

Miss GANDY. No. Mrs. Metcalf filed the material and indexed it, but I was responsible for it.

Ms. ABZUG. The point I am trying to make is this. There is some indication that there were files that were originally marked "Personal" which really contained official information. That had been discovered by Mr. Hoover himself and were marked for transfer. Now, in the whole series of files from Z to J that you went through, there seems to be no recollection on your part of anything similar happening, and that all of the personal files were destroyed.

Miss GANDY. I know there were not. As I say, you have my word.

Ms. ABZUG. What was contained in some of these personal files?

Miss GANDY. Letters from and to, and the original letters from, and the carbon of letters to personal friends.

Ms. ABZUG. Were there any letters in there concerning Martin Luther King, Jr.?

Miss GANDY. I doubt it very much. There would have been no reason for it.

This was a collection of almost 50 years.

Ms. ABZUG. Do you think those letters might have had some value?

Miss GANDY. There were autographs which could have been of value.

Ms. ABZUG. And you tore those up?

Miss GANDY. Indeed, I did.

Ms. ABZUG. Knowing that they might be of value to the estate of Mr. Hoover.

Miss GANDY. Mr. Hoover would not have allowed them to be used if he had been living. I had my instructions.

Ms. ABZUG. Mr. Moffett.

Mr. MOFFETT. Miss Gandy, I believe this is the first time you have ever appeared before the committee, is it not?

Miss GANDY. It is.

Mr. MOFFETT. We appreciate your testimony. You mentioned your instructions.

Miss GANDY. Yes.

Mr. MOFFETT. I want to go to the matter of Mr. Gray for the moment, if I might. There seems to be a contradiction between what Mr. Gray has told this subcommittee in conversations with the staff. I understand there is a letter to follow from him. There is a contradiction between that and what you said.

Mr. Gray told the staff that he never looked at a single file. He knew that you were going through the files but he never knew what disposition was being made. Are you saying that that is not true?

Miss GANDY. Do you think I should answer that?

Mr. MOFFETT. I would like very much for you to answer that.

Miss GANDY. Is it necessary that I answer it?

Mr. MOFFETT. I would hope that you would see fit to answer.

Miss GANDY. I have told the truth.

Mr. MOFFETT. And your testimony is that he did in fact look at the files?

Miss GANDY. You heard it.

Mr. MOFFETT. And he did know the disposition?

Miss GANDY. You heard it. I have no reason to lie.

Mr. MOFFETT. We also have in writing from Mr. Gray, although this is not his affidavit with regard to the matter I mentioned, a handwritten letter of November 27, 1976—1975 rather. I might add for the record that he has put 1976 on it. In the letter addressed to Mr. Jacobs of our staff, he refers us to a copy of a routing slip from what he calls “my Executive Assistant, Dave Kinley, to me, Mr. Gray, dated May 15 in the year 1972. He says, “As will be self-evident from the notes attached to it”—and this is a copy of a routing slip—“the notation thereon ‘Personal File for Notes’ is in the handwriting of my then personal secretary, Mrs. Neenan,” it looks like.

In that routing slip of May 15, 1972, Mr. Kinley refers under item No. 1 to a meeting. It says, “I want to meet with the entire personal staff, on Tuesday a.m., at 9 o’clock. This includes all men and women who are engaged in work in the Office of the Director. We will meet in my conference room.”

Next to that on the left-hand column is the notation: “Done.” Do you recall such a meeting?

Miss GANDY. I left on the 12th.

Mr. MOFFETT. So, you were not present. Did you know of such a meeting?

Miss GANDY. No; I did not.

I have been very careful for the last 3½ years to divorce myself as much as possible from the FBI.

Mr. MOFFETT. I want to get something clear for the record.

I thought that you testified earlier that you made no determination about what was official and not official, and that that determination had been made in advance.

Miss GANDY. That is true.

Mr. MOFFETT. And yet it appears that on your own authority—correct me if I am wrong—that you began to go through Mr. Hoover’s personal files immediately after his death and that you did make such determinations?

Miss GANDY. There was no one else to do it at that point.

Mr. MOFFETT. But you made the determination about what was official and what was not official?

Miss GANDY. Yes.

Mr. MOFFETT. So you did make determinations?

Miss GANDY. Yes.

I did, and I felt qualified to do so.

Mr. MOFFETT. Let us make sure we have this clear, because I want you to understand the nature of my question.

Did you testify earlier today that in fact you never made determinations about what was official and what was not official, and that in fact that had been done in advance?

Miss GANDY. When Mr. Hoover was living it was done by Mr. Hoover.

Mr. MOFFETT. I see.

The eight items that were just read to you by the chairwoman, are all at the beginning of the alphabet, as you may have noted.

Miss GANDY. Yes.

Mr. MOFFETT. You spent approximately 2½ months going through the files from C to Z?

Miss GANDY. Yes. Did you say C to Z?

Mr. MOFFETT. Is that not correct?

Miss GANDY. No.

Mr. MOFFETT. The rest of the alphabet?

Miss GANDY. I said Mrs. Metcalf started on the first part.

Mr. MOFFETT. You and Mrs. Metcalf spent that time, I am sorry.

When the Senate investigators had access to only a fraction of that O.C. file they came up with eight official documents in the personal files.

Miss GANDY. I understood that.

Mr. MOFFETT. Are we not to view it as strange—that is, that in your going through the rest of it you found nothing of that sort?

Miss GANDY. I do not find it strange.

Mr. MOFFETT. That all that occurred from A to C and none of it from C to Z?

Miss GANDY. I do not find it strange at all.

Mr. MOFFETT. I see.

Miss GANDY. May I say this?

Had we assurance that those things were changed—that is, that those files were changed when Mr. Hoover started to go through them—

Mr. MOFFETT. I understand that that is your testimony.

It is true that you were exercising an enormous amount of responsibility and authority as you went through these files; is it not?

Miss GANDY. I suppose so.

Mr. MOFFETT. Perhaps on the basis of your long service and so forth, that is fitting, but you really had an enormous amount of responsibility.

Miss GANDY. I felt responsible, yes.

Mr. MOFFETT. What if Mr. Hoover had collected material on his own with regard to prominent people whom he viewed as a threat to the Nation: If he had collected that kind of information and kept it in his own personal file, would you have found it when you went through?

Miss GANDY. Certainly.

Mr. MOFFETT. And you found no such material?

Miss GANDY. No such material.

Mr. MOFFETT. There was no material that was destroyed that related to anything at all that appeared in the press with regard to violation of citizens' individual rights?

Miss GANDY. I would say no.

If there were any media material it would be in the scrap books which are now, or were when I left the Bureau, in one of the sections of the Bureau. The library, I believe.

Mr. MOFFETT. You do not know where they are now?

Miss GANDY. No; I do not.

Mr. MOFFETT. You heard Mr. Kleindienst testify, I assume?

Miss GANDY. Yes; I did.

Mr. MOFFETT. Based on your long experience with the Bureau, is it not surprising to you that someone in Mr. Kleindienst's position would not put in writing an order as important as the one that he said that he gave verbally?

Miss GANDY. No; it is not. He trusted us.

Mr. MOFFETT. Is it surprising to you that no followup was done by Mr. Kleindienst?

Miss GANDY. No.

Mr. MOFFETT. I assume it is not surprising to you that no memo was written, and that Mr. Kleindienst was telling the truth?

Miss GANDY. I could not comment on that because I do not know the circumstances.

Mr. MOFFETT. Would you say that it was standard procedure in the Department for an order of that importance and magnitude to be given and not followed up?

Miss GANDY. I have no knowledge of departmental procedures.

Mr. MOFFETT. After 50-plus years.

Miss GANDY. Yes, after 50-plus years.

Mr. MOFFETT. I thank you for your testimony.

Ms. ABZUG. Mr. Steiger.

Mr. STEIGER. Miss Gandy, I would like to congratulate you on both your presence and your articulateness. I want you to know that you have sustained my faith in the overall value of the Bureau and that which has been the subject of a great deal of attention.

Have you followed the media accounts since the Director's death? That is, of Capitol Hill's obsession with the FBI?

Miss GANDY. Yes.

Mr. STEIGER. Have you told us anything here this morning, or do you know anything, or have you revealed anything, or have you learned anything this morning that has not already been dissected in the media in some form or another?

Miss GANDY. No.

Mr. STEIGER. I have no further questions.

Ms. ABZUG. Mr. Maguire.

Mr. MAGUIRE. I have no questions at this time.

Ms. ABZUG. Mr. McCloskey.

Mr. MCCLOSKEY. Miss Gandy, where were the personal records located when you received Mr. Kleindienst's order to seal Mr. Hoover's office?

Miss GANDY. In my office.

Mr. MCCLOSKEY. Was that a part of the complex?

Miss GANDY. Yes.

Mr. MCCLOSKEY. Did you have any understanding that his order required that the personal records of Mr. Hoover be preserved?

Miss GANDY. No. I did not analyze his order.

Mr. MCCLOSKEY. You spoke of instructions from Mr. Hoover to you. What were those instructions?

Miss GANDY. That he wanted to destroy his personal files.

Mr. MCCLOSKEY. Upon his death?

Miss GANDY. Yes.

Mr. MCCLOSKEY. Were you familiar with the law that any instructions expired as of the date of his death?

Miss GANDY. No. I did not know that.

Mr. MCCLOSKEY. You did not know that a dead man's instructions could not be carried out after his death?

Miss GANDY. I carried out Mr. Tolson's instructions after Mr. Hoover's death. At that time Mr. Tolson gave me those instructions he was the Acting Director. Mr. Gray had not been named.

Mr. McCLOSKEY. You could know that you could not carry out Mr. Hoover's instructions after his death; is that correct?

Miss GANDY. I understand that.

Mr. McCLOSKEY. Pardon?

Miss GANDY. I understand that.

Mr. McCLOSKEY. And you understood it on May 2d?

Miss GANDY. Yes.

Mr. McCLOSKEY. So that in destroying Mr. Hoover's records you were acting upon the instructions of Mr. Tolson, not Mr. Hoover?

Miss GANDY. I suppose so.

Mr. McCLOSKEY. Why do you say you suppose so?

Miss GANDY. I think that would follow, since Mr. Hoover was dead.

Mr. Tolson and I both knew his wishes.

Mr. McCLOSKEY. When did Mr. Tolson give you those instructions?

Miss GANDY. Before his resignation.

Mr. McCLOSKEY. What was that date?

Miss GANDY. I believe he resigned the day Mr. Gray was appointed Acting Director.

Mr. McCLOSKEY. What was that date?

Miss GANDY. I could not tell you. It was either the 2d or the 3d. It was before Mr. Hoover's funeral. Mr. Gray sat with the President at Mr. Hoover's funeral.

Mr. McCLOSKEY. Let me see if I understand this. Mr. Hoover died on May 2?

Miss GANDY. Yes.

Mr. McCLOSKEY. Then you received an order from Mr. Kleindienst that Mr. Hoover's office was to be sealed?

Miss GANDY. Through Mr. Mohr.

Mr. McCLOSKEY. You then received instructions from Mr. Tolson, who was then Acting Director?

Miss GANDY. Yes.

Mr. McCLOSKEY. How long after Mr. Hoover's death do you recall that you received those instructions from Mr. Tolson?

Miss GANDY. I could not tell you the exact date, but I would say it was pretty much immediately.

Mr. McCLOSKEY. Within a day or so?

Miss GANDY. Yes.

Mr. McCLOSKEY. Then Mr. Tolson was replaced?

Miss GANDY. Yes.

Mr. McCLOSKEY. By Patrick Gray as Acting Director?

Miss GANDY. Yes.

Mr. McCLOSKEY. Were the records destroyed at that time?

Miss GANDY. Not until I had permission from Mr. Gray also.

Mr. McCLOSKEY. So, did you ask Mr. Gray for permission to destroy Mr. Hoover's records?

Miss GANDY. I did.

Mr. McCLOSKEY. And did he give you that permission?

Miss GANDY. Mr. Gray came into our office and asked about the files.

Mr. McCLOSKEY. And what day was that approximately?

Miss GANDY. It could have been after Mr. Hoover's funeral, whatever date that was.

Mr. McCLOSKEY. But it was after Mr. Gray took over?

Miss GANDY. Yes.

Mr. McCLOSKEY. And as of that point in time, had you destroyed any of the personal records?

Miss GANDY. No.

Mr. McCLOSKEY. As of that point in time Mr. Tolson had been replaced as Acting Director?

Miss GANDY. Yes.

Mr. McCLOSKEY. So, whose instructions were you carrying out when you began to destroy the personal records?

Miss GANDY. Mr. Gray's approval. Not instructions, but approval.

Mr. McCLOSKEY. Was that approval in writing or oral?

Miss GANDY. Orally.

Mr. McCLOSKEY. Can you recall what he said?

Miss GANDY. I could not recall the exact words.

Mr. McCLOSKEY. Do you recall what you asked?

Miss GANDY. He was cordial, he sat on the edge of my desk in my office. He was asking about any files that we might have in the office which he would be interested in, or which would be the files we were talking about, that is, that we were supposed to have. I asked him if he would please look through the personal correspondence files.

He leafed through one or two drawers. He said that it was perfectly all right to go ahead.

Mr. McCLOSKEY. To go ahead and do what?

Miss GANDY. To destroy them.

Mr. McCLOSKEY. Did you destroy them in the office?

Miss GANDY. As long as I was working until the 12th of May.

Mr. McCLOSKEY. After the 12th of May?

Miss GANDY. After the 12th of May he gave me his approval to take the remainder to Mr. Hoover's home for disposal, so I could clear the offices for him to move his staff in.

Everything was put together in a hurry.

Mr. McCLOSKEY. Miss Gandy, at any time did you discuss this with the executor or the administrator of Mr. Hoover's estate?

Miss GANDY. Mr. Tolson was the executor. Yes; I did.

Mr. McCLOSKEY. He was the executor?

What was your first conversation with Mr. Tolson on this subject?

Miss GANDY. Very shortly after Mr. Gray took over.

Mr. McCLOSKEY. And what did he say?

Miss GANDY. About the disposal?

Mr. McCLOSKEY. Yes.

Miss GANDY. I do not recall that that was mentioned at that time. The official confidential files were mentioned right away, because Mr. Hoover's instructions through the years had been that if he should die while he was still Director, the official confidential files were to be turned over immediately to the next Director, or Acting Director.

Mr. McCLOSKEY. What about the personal files?

Miss GANDY. The personal files he wanted destroyed. That was his personal correspondence.

There were certain personal files which concerned his estate, his income tax returns from the first years.

Mr. McCLOSKEY. How long after his death was it when you first commenced to destroy any part of his personal files?

Miss GANDY. As soon as Mr. Gray gave his approval. I did not make any notes about dates and times.

Mr. McCLOSKEY. Miss Gandy, on this notation on the so-called black bag memo, it says "Do not file." What was the process in the Bureau with respect to documents marked so?

Miss GANDY. "Do not file" meant that they were not to be indexed in the general files. I do not know where they were filed.

Mr. McCLOSKEY. Were they not filed in the official file?

Miss GANDY. "Do not file" did not mean that they would be in the official file, no.

Mr. McCLOSKEY. Were all of the files of the official confidential file marked "Do not file"?

Miss GANDY. I doubt it very much.

Mr. McCLOSKEY. With respect to those official confidential files, did they include the files of wiretaps?

Miss GANDY. No.

Mr. McCLOSKEY. Can you enlighten us as to where the wiretap files were kept?

Miss GANDY. I have no idea.

Mr. McCLOSKEY. Do you recall the Ellsberg matter?

Did that reach your personal attention in 1971 when Mr. Ellsberg published the Pentagon Papers?

Miss GANDY. Yes.

Mr. McCLOSKEY. Do you recall when his trial started in January of 1973?

Miss GANDY. Vaguely.

Mr. McCLOSKEY. Do you recall the people from the Department of Justice saying that they had examined the records of the Department of Justice and there was no record of a wiretap of Mr. Ellsberg?

Miss GANDY. I would not know about that.

Ms. ABZUG. Will the gentleman yield?

Mr. McCLOSKEY. Certainly.

Ms. ABZUG. I would like the gentleman to look at that. The black bag memo which I mentioned before was marked "Do not file." Do you happen to know where that was filed?

This refers to what Mr. McCloskey was questioning you about. Where would this memorandum have been filed? It is marked "Do not file."

Miss GANDY. I would think that "Do not file" would have been—that is, it is typed, is it not?

Ms. ABZUG. Yes.

Miss GANDY. I believe that was typed on by the person who wrote the memorandum. That is, to make sure that it would not go into the main indices of the Bureau files.

Mr. McCLOSKEY. What I am trying to get at is this testimony which is routinely given by the Department of Justice officials, that they have examined the records of the FBI and they find no record of any wiretaps having been made.

Consequently, that is used as an evidentiary matter in the court proceedings. The FBI is assisting the U.S. attorney to prosecute. There is particular reference here to the Ellsberg trial which started in January of 1973, and ended in May of 1973. My recollection is that in the

early days of that trial there was testimony by the Justice Department, or a transmittal by the U.S. attorney to the court that a search of FBI records had been made and there was no record of any wiretapping.

Yet, somewhere in the FBI, records were kept of wiretaps.

Are you testifying today that those records were not kept in the official confidential file?

Miss GANDY. They were not kept in Mr. Hoover's office.

Mr. McCLOSKEY. I see.

This black bag job memorandum which you have previously testified to was kept for a time in Mr. Hoover's personal file, was it not?

Miss GANDY. Yes, it was.

Mr. McCLOSKEY. You testified that you went through his personal file and removed any documents there that pertained to Bureau business, and you transferred those files to the official confidential files, is that correct?

Miss GANDY. Yes. Repeat that, please.

Mr. McCLOSKEY. If I understood your testimony, it was that you went through Mr. Hoover's personal files meticulously, carefully, each page, and that anything you found in those personal files which related to Bureau business, you caused to be transferred to the official confidential files.

Miss GANDY. No; I did not testify to that.

Mr. McCLOSKEY. What did you do with anything you found in Mr. Hoover's personal records?

Miss GANDY. I have testified, and I repeat, that I found nothing in Mr. Hoover's personal correspondence files that should be in the Bureau files or had to be in the Bureau files. There was nothing.

Mr. McCLOSKEY. In the year preceding his death, that is, 1971 and 1972, did you participate in the transfer of his personal files to the official confidential files?

Miss GANDY. That has been over 4 years ago. I do not remember.

Mr. McCLOSKEY. I thought you indicated earlier in your testimony that you may have seen this black bag memo.

Miss GANDY. I said I saw it when representatives of the Church committee showed it to me.

Mr. McCLOSKEY. I see.

Miss GANDY. May I ask a question about that?

Mr. McCLOSKEY. Certainly.

Miss GANDY. Is that a Xerox copy of a copy of the memorandum, or of the original?

Mr. McCLOSKEY. I have no way of knowing. The copy we have shows a deletion at the bottom where the last paragraph appears to be blacked out.

So, I gather there is no way I have of knowing as to whether this is a Xerox of the original.

Did you assist Mr. Hoover, and were you required to transfer records from his personal file to the official confidential file?

Miss GANDY. I may have. It would have been part of my duty to see that it was done.

Mr. McCLOSKEY. You have no recollection?

Miss GANDY. No.

Mr. McCLOSKEY. You do not have a recollection as to the reasons that caused him to transfer these things?

Miss GANDY. No, not at this date.

Mr. McCLOSKEY. Did you have custody of the official confidential files?

Miss GANDY. Yes.

Mr. McCLOSKEY. Did you have the right to determine who looked at those files and who did not?

Miss GANDY. With Mr. Hoover's approval. From time to time there would be inquiries about something that might be in those files, but Mr. Hoover had to give his personal approval before an Assistant Director was allowed to read them. Then only in our office.

Mr. McCLOSKEY. No further questions.

Ms. ABZUG. Miss Gandy, the testimony you gave here was that the "Do not file" was typed on this. This was not answered when I asked you while Mr. McCloskey was questioning you. What happened when "Do not file" was typed on a memorandum? Where was that then filed?

Miss GANDY. I could not say. I really do not know.

Ms. ABZUG. On the memorandum there is a marking "P.F." Did you put that PF on there?

Miss GANDY. I feel sure that is mine.

Ms. ABZUG. So that "Do not file," if it was marked "P.F.," would appear then to end up in the personal files of Mr. Hoover.

Miss GANDY. That is the reason I asked if that were made from a Xerox copy, or from the original.

Ms. ABZUG. Your testimony is that you marked this black bag memorandum PF, which means personal file.

Miss GANDY. I feel sure it is my initials.

Ms. ABZUG. It is marked "Do not file." Does that mean that when something is marked "Do not file" it was put in the personal files of Mr. Hoover?

Miss GANDY. No.

Ms. ABZUG. What else can one glean from that?

Miss GANDY. That was probably one case out of hundreds where a copy may have been kept.

Ms. ABZUG. In other words, there were certain files which were marked "Do not file" files, which were then marked "P.F." by you as personal files, and they appeared in certain records which are the personal files of Mr. Hoover.

For example, there is at least evidence that that is so in the black bag memo.

Miss GANDY. That one, yes.

Ms. ABZUG. So, you do know that the black bag memo, which does not concern itself with a personal matter, but rather a political matter, was put in a personal file of Mr. Hoover. You have knowledge of that, because you have testified to that right here today.

Miss GANDY. Is that a question?

Ms. ABZUG. You might regard that as rhetorical.

But it is a question. Do you not have knowledge of that? You have so testified to this today, is that not so?

Miss GANDY. I said I believe that they are my initials. Other than that, I have no knowledge.

Ms. ABZUG. But your initials say P.F., that means "personal file." Therefore, that was originally in the personal file of Mr. Hoover. I read you a list, one of which is the "black bag" memo, which states that that was originally in the personal files of Mr. Hoover and was then ordered transferred by Mr. Hoover at a subsequent date to official files.

Per J. Edgar Hoover, November 4, 1971.

Miss GANDY. There is that date on it?

Ms. ABZUG. That is what I have read to you. It was originally in the personal file. The P.F. was marked "personal file" by you, and subsequently the black bag job memo was transferred into the official and confidential file by instruction of J. Edgar Hoover on November 4, 1971.

Was there any other instances that you now could recall?

Miss GANDY. None.

Ms. ABZUG. None except this?

Miss GANDY. No.

Ms. ABZUG. Did everything that came past you go into Mr. Hoover's files in one form or another, either in the personal file, the official and confidential file, or the Bureau files that you mentioned?

Miss GANDY. I do not believe I understand.

Ms. ABZUG. Did you just throw anything away?

Miss GANDY. No.

Ms. ABZUG. Do you recall any material about political figures?

Miss GANDY. No.

Ms. ABZUG. You never saw any material about political figures?

Miss GANDY. How could I say that?

After all these years.

Ms. ABZUG. Were there in your recollection any files concerning political figures?

Miss GANDY. I have no recollection whatsoever.

Ms. ABZUG. You have no recollection of any files concerning political figures?

Miss GANDY. No.

Ms. ABZUG. Have you ever seen a memo concerning Hubert Humphrey during the 1968 campaign?

Miss GANDY. I do not recall it.

Ms. ABZUG. You have no recollection concerning political figures?

Miss GANDY. No.

Mr. STEIGER. Would the gentlelady yield?

Ms. ABZUG. Yes.

Mr. STEIGER. In light of the chairwoman's approach here, I would like to say this. You have told us it was not a procedural matter for documents marked "Do not file" to be placed in the Director's personal file, is that correct?

Miss GANDY. That is correct.

Mr. STEIGER. Thank you.

Ms. ABZUG. I would like to play a tape for you that a staff investigator, Mr. Fink, took of Mr. Sullivan, former Assistant Director of the FBI, that is relevant to Mr. Hoover's files.

Mr. Sullivan's health precludes his personal appearance here today. This interview was conducted in Boston, Mass., on November 7.

I would like you to listen to it, because I would like to ask you some questions afterward.

[A tape recording of the excerpt of an interview between Mr. Fink of the subcommittee staff and Mr. William C. Sullivan, former FBI Assistant Director follows:]

Mr. FINK. Those things that were in Hoover's office, the personal stuff, was that correspondence, what else was there?

Mr. SULLIVAN. Well, he had had personal correspondence. Now personal correspondence could deal with official business, you see, not just discussions of Mr. Hoover's last trip by somebody to La Jolla. It could deal with a cabinet officer, or a misconduct of some other person highly placed, or it could deal with certain political considerations.

To give you an example, I think things are clearer by example, he called me in one time when Mr. Humphrey was running for the Presidency and he seemed to be quite distressed and he said, "Sullivan," he said, "I know you are a Democrat * * *. Now," he said, "I have learned," he had a paper there, he had a memorandum in his hand, "I learned that when Mr. Humphrey is elected he plans to remove me immediately. * * * But," he said, "I would like to have you find out for me whether it is true or not whether Humphrey is going to remove me when he comes to office."

Then I happened to think of a friend of mine out in Chicago, one of the leading lawyers of Chicago and very active in Democratic circles and I said, "Well, I just happened to think of a person who might be able to get that information for you," and I did not mention his name and so I did get in touch with this chap and he did make an inquiry.

And according to the report that came back to me, Humphrey laughed—"ridiculous," he said. In substance Humphrey said, "I have not given any thought to Hoover. I am busy campaigning," he said. "He is not important to me." Which makes sense. Which makes sense. So I passed that on to him.

But you see, he had that memorandum in his office and that was a political matter related to himself. Well, I heard no more from there—heard no more from there. And the data—the memorandum he kept in his office—as I say, covers quite a scope, quite a scope.

Mr. FINK. Now, all of that stuff has disappeared?

Mr. SULLIVAN. That has all disappeared. Now there was one up in there in his office, and I will not mention the man's name. I know you would not want me to because it might be grossly unfair, but the information had come in that he had engaged in some very, very reprehensible conduct, you see. But it was one of those allegations probably made by a vicious enemy and he had that and wondered whether I could find out anything about it.

But I said, "Mr. Hoover, this man is so highly placed that how do you propose that I find out anything about it? If I was to have any of my men ask questions along this line, it would be out in no time."

Well, he saw that point, but he would still like to know. Well, I was not able to do anything for him on that score. But he had that up there. So it could cover quite a wide scope.

Mr. FINK. Now, are you familiar with the O and C files? Official and Confidential Files?

Mr. SULLIVAN. These confuse me a little. These files I think are what I am talking about. They are all included. Official and Confidential well, you know, to me that is kind of meaningless because thousands and thousands and thousands of items were official and confidential.

Mr. FINK. I am trying to distinguish the difference between these and "Do Not File" memos.

Mr. SULLIVAN. Oh, it's, it's a bucket of worms, if I may use the vernacular. It is a bucket of worms separating, all these different categories.

Mr. FINK. I understand that some of the papers that were in Mr. Hoover's office were destroyed by Miss Gandy and others were removed to Mr. Hoover's house.

Mr. SULLIVAN. * * * Yes, Miss Gandy, I think has made the public statement that she began shredding materials—documents that were in Hoover's office a year before he died. I think that is a matter of public record—and I guess more afterwards.

Now what about the rest of this material, you say; well that is the unknown question. I think we all know that it was there. We all know it was there. I have seen on a sufficient number of occasions that the door was open on those special little filing cabinets on the wall to know that they were really filled with material. And I have seen on one of the ordinary four drawer filing cabinets: I have seen one of them pulled out and left out, you know—while somebody was going in there to check something—to know they were just loaded.

Mr. FINK. Now, there has been a lot of talk about files on the Members of Congress.

Mr. SULLIVAN. Yes, I have seen, now this I can speak from experience and also from what was reported to me. I have seen files on—I have seen documents—let me put it this way, memoranda, documents on Members of Congress, I think this was a general rule, but I stand to be corrected if it is not.

The general rule was that when a man was elected to the House of Representatives, or he was elected to the U.S. Senate, a man or woman, immediately the Bureau indexes, the indexes were reviewed on that officeholder, that new officeholder, to see what we had on him, good or bad. Could he be looked upon as a person to cultivate and to use and to draw into the stable on Capitol Hill, or should he be looked upon as one that would be unfriendly to the Bureau, critical to the Bureau, possibly one who would get opposition to the Bureau? And, if so, then he would be treated accordingly.

Mr. FINK. Did any of these files contain collection of derogatory information? Were efforts ever made to go out and seek derogatory information about not only Congressmen but people prominent in life? People who were influential?

Mr. SULLIVAN. Well, anyone who wrote a book or was writing a book or we knew that was going to be critical of Mr. Hoover and the FBI, we made efforts right then and there to find out anything that we could use against him.

For example, Max Lowenthal, years ago wrote that book on the FBI, and we immediately began a very extensive inquiry into Max Lowenthal. And I do not remember now what the result of it was. It was too long ago. But I know that we spent an enormous amount of time and money analyzing and releasing to the press critical observations about this book.

And it might be interesting if you had the time, or one of your assistants had the time, to see how many copies of that book sold. Because one of our objectives was to kill the sale of that book on the FBI. I—and I am going by memory now—I cannot say that this is true, but I seem to recollect that we even went to some bookstores and asked them not to stock it.

Ms. ABZUG. The hearing will be recessed while we go and vote and we will return in 10 minutes.

Miss GANDY. I would like to make a statement.

Ms. ABZUG. We would be happy to hear from you after this.

Miss GANDY. Thank you.

[Recess taken.]

Ms. ABZUG. The hearing will be called back to order.

We have just heard a tape which was part of an interview made with Mr. Sullivan, the former Assistant Director of the FBI, and Mr. Fink of the subcommittee staff.

I provided the witness with a copy of that excerpt as the tape was being played.

Is Mr. Sullivan correct when he said that there was material on political figures in Mr. Hoover's offices?

Miss GANDY. If Mr. Sullivan knows that, his memory is a whole lot better than mine.

Ms. ABZUG. Is there?

Miss GANDY. No.

Ms. ABZUG. There never were any files on political figures?

Miss GANDY. No, indeed.

Ms. ABZUG. There were no documents of any kind on Members of the House and Senate?

Miss GANDY. I could not answer that.

Ms. ABZUG. You do not know? Or you do not want to answer?

Miss GANDY. I do not remember. I am willing to answer any questions.

Ms. ABZUG. There has been the statement made by Mr. Sullivan that there were files which he has seen, that is, documents, memoranda, on Members of Congress. "The general rule was that when a man was elected to the House of Representatives or he was elected to the U.S. Senate, a man or a woman, immediately the Bureau indexes, the indexes were reviewed on that officeholder, that new officeholder, to see what we had on him, good or bad. Could he be looked upon as a person to cultivate and to use and to draw into the stable on Capitol Hill, or should he be looked upon as one that would be unfriendly to the Bureau, critical to the Bureau, possibly one who would get opposition to the Bureau? And, if so, then he would be treated accordingly."

That is the statement of Mr. Sullivan. That is, that there were files kept on Members of the House and the Senate and Members of Congress.

Does that refresh your recollection?

Miss GANDY. It does not.

Ms. ABZUG. Is it your statement that there were no such files?

Miss GANDY. So far as I know, there were no such files in Mr. Hoover's office.

Ms. ABZUG. How about anywhere in the suite?

Miss GANDY. Nowhere in the suite.

Ms. ABZUG. Mr. Maguire, did you have any questions?

Mr. MAGUIRE. Thank you, Madam Chairwoman.

Miss Gandy, on page 3 of the typed transcript of the interview with Mr. Sullivan it says that you began shredding materials, documents that were in Mr. Hoover's office, a year before he died. Mr. Sullivan thought that was a matter of public record. Is that correct?

Miss GANDY. A year before he died?

Mr. MAGUIRE. That is not correct?

Miss GANDY. Certainly not.

Mr. MAGUIRE. When did you first start culling and shredding documents?

Miss GANDY. When Mr. Hoover himself indicated he wanted to go through those files.

Mr. MAGUIRE. And would you restate when that was?

Miss GANDY. I could not state the day. It had to be perhaps the fall before he died. I do not believe it was farther back than that.

Mr. MAGUIRE. So Mr. Sullivan's recollection is incorrect?

Miss GANDY. I would not challenge Mr. Sullivan.

Mr. MAGUIRE. The difficulty is that we have statements from you that are quite different from the statements that were made by others.

Miss GANDY. I have given you true statements.

Mr. MAGUIRE. So therefore the other statements are not correct?

Miss GANDY. I am not saying that. Mr. Sullivan will have to answer that.

Mr. MAGUIRE. Let us go back to the personal files, that is the A to C files and the balance of the alphabet for a moment.

As I understand it, Mr. Hoover went through the A to C files and selected certain files which were then placed in the official and confidential files.

You subsequently went through the balance——

Ms. ABZUG. Would the gentleman yield for a moment?

Mr. MAGUIRE. Yes.

Ms. ABZUG. Before you get into another line of questioning, I recall that when we concluded our session prior to the recess, the witness asked if she could make a statement.

I did not mean to preclude your making that statement with respect to the tape.

So, before he proceeds with another line of questioning, if there is a statement you would like to make we would be glad to have it.

Miss GANDY. It was more or less facetious. I was going to say if my memory was as good as Mr. Sullivan's, we would not be having the trouble we are having.

Ms. ABZUG. I can appreciate that a certain amount of time has passed. Many complications sometimes makes it difficult to remember.

I therefore am trying to confine my questions to a much more identifiable event or possibilities. I have not concentrated on the minutiae.

I was really interested in getting a response from you with respect to the maintenance of certain kinds of files.

This committee has the jurisdiction over information policy and the systems and files that are kept by all of the agencies of Government.

Our interest is what kinds of files are kept, whether there are indexes kept, whether there is notice of these files, whether they are in compliance with the Freedom of Information Act and the Privacy Act, and where there have been abuses we attempt to try and correct that so that we can remedy some of the loopholes that exist in the legislation.

I think that all of the agencies of Government have a specific function. We try to help in this Committee, that is, in our oversight, to make sure that they remain within that function and that the information that is kept about individuals is proper and not in violation of the law.

The information that is not proper should not be kept, and information that should be available should be made available.

This is the purpose underlying our questions here today.

Miss GANDY. I understand that.

Ms. ABZUG. We are an ongoing committee. We are not a select committee or a special committee. It is an ongoing committee. We have tried very hard to be very serious about our responsibility. It is a difficult one.

We have to get into a lot of issues that we might not normally choose or care to get into.

Our purpose is to correct the mistakes of the past so that we can make sure that there is general confidence in Government on the part of both the members of the Government and the public as a whole, as well as the Congress.

So, when I ask a question about whether a file is kept concerning Members of Congress, or political figures, it is a fairly general statement.

It comes out of information that was generally, I thought, made available. If one wants to figure out why those files are kept, and there may be some basis for keeping some information, and there may be bases for not having information. This is our responsibility. No one charges you personally with any mistakes that may have been made.

MISS GANDY. I understand that.

MS. ABZUG. You are a very important witness in the sense that you have had years of public service in which you have had a very great responsibility. You can aid us considerably in our effort in determining what was the nature of the information that was kept and gathered, so that we can determine what should be kept and what should be gathered, and what should not be kept and what should not be gathered.

This will help us develop a better system.

This is the only purpose of asking these questions.

The question is "Should certain files be kept at all?"

The question is "How should they be kept and should the information be made available, and how should it be made available in order to help the Government proceed with the process of American democracy?"

These are the reasons for the questions.

There are many who believe that there is considerable question about whether one keeps files, and the way that they were kept. It is as simple as that. This is not a reflection on the persons who kept them.

You obviously did your job and fulfilled your responsibility as you were directed to. We are aware of that. We are just seeking your assistance because of the enormous responsibility that you were able to carry on for so many years, and in order to determine what should be the correct path.

So, that is the purpose of these questions today.

You are helping the Government clean up some of our problems by recalling as best you can. We know the difficulty of recollection. It is not easy.

In any case, I wanted to make clear that you are not in any way on the spot here. You are an important witness to help us carry out our responsibility.

MISS GANDY. I understand that, that it is your responsibility to the public.

MS. ABZUG. And also as our role as Members of Congress and members of the committee.

MISS GANDY. That is the reason I have tried to give you truthful answers.

MS. ABZUG. Then, it is your testimony that you have no recollection or you do not know, of any files kept on Members of Congress?

MISS GANDY. Yes.

MS. ABZUG. Mr. Maguire, will you continue. Thank you for giving me the time.

MR. MAGUIRE. Miss Gandy, I refer to the question I asked you a moment ago.

Your answer as I understood it was that some time in the previous fall you began going through the files with Mr. Hoover, is that correct?

Miss GANDY. I think the date on the memorandum indicates that.

Mr. MAGUIRE. This would be in excess of 6 months during which time you were going through the files with Mr. Hoover.

Miss GANDY. He had very little time to take.

Mr. MAGUIRE. Could you tell us what you did accomplish in that period of time? What files did you go through, and what were the results that followed from going through those files during that period of time prior to his death?

Miss GANDY. I think we have been over that, have we not?

Mr. MAGUIRE. It is 6 or 8 months of time. Are we just getting through A through C?

Miss GANDY. He might have 5 minutes a day.

Mr. MAGUIRE. So, we only got through A through C in the 6-month period?

Miss GANDY. That is correct.

Mr. MAGUIRE. Let us go then to the matter of what constituted, in your mind and in Mr. Hoover's mind, a personal file.

I gather that you and he went through the A through C files together more or less, is that correct?

Miss GANDY. Yes.

Mr. MAGUIRE. These eight files which have been identified in the record were selected out for transferral to the official and confidential files?

Miss GANDY. Yes.

Mr. MAGUIRE. What criteria did he and you use to select material out of those files? Why were those files different from the other files?

Miss GANDY. They did not contain, that is, they were not set up to contain any strictly Bureau material. They were his personal correspondence.

Mr. MAGUIRE. So, any of the files in the A through C categories that contained Bureau material would have been transferred to the O. & C. files, is that correct?

Miss GANDY. Either there or to the main Bureau files if there was such material there.

Mr. MAGUIRE. Do I conclude then, from that—and I recognize that this has been covered to some extent, but I do not think it has been covered thoroughly—it is your testimony that you went through the remainder of the alphabet after Mr. Hoover's death?

Miss GANDY. With the assistance of Mrs. Metcalf.

Mr. MAGUIRE. Correct.

You found no file which contained any Bureau material?

Miss GANDY. That is correct.

Mr. MAGUIRE. I think we had something like 32-drawers worth of files?

Miss GANDY. That is one thing I would remember because I was very conscious of that when I was going through the material.

Mr. MAGUIRE. When you went through each file, you went through each individual piece of paper? In each file?

Miss GANDY. I did.

Mr. MAGUIRE. You have said that there were no files on Members of Congress, in spite of Mr. Sullivan's testimony to the contrary.

What about past Presidents of the United States? What about Franklin Roosevelt and Harry Truman, and Dwight Eisenhower, and John Kennedy?

Miss GANDY. If there had been personal letters from them, they would have been destroyed too. If they were personal letters, not relating to Bureau matters they would have been destroyed.

If it were correspondence relating to Bureau matters, it would have been transferred.

Mr. MAGUIRE. So, there were no files containing any Bureau material on any of the Presidents of the United States over the period of years that Mr. Hoover served?

Miss GANDY. No.

Mr. MAGUIRE. What percentage of the files that you went through were roughly speaking personal, that is, had individual names, and how many had subject headings?

Miss GANDY. I could not tell you.

Over a period of 40 years there would be quite a bit of personal friends' correspondence. That is what it was.

Mr. MAGUIRE. There would not have been any correspondence in any of the files under any subjects between the headquarters and the special agents in charge of field offices or FBI headquarters staff?

Miss GANDY. Unless it were a personal matter.

Mr. MAGUIRE. What is the definition of personal?

Let us assume that there may be a piece of correspondence from a field office, what would be a personal matter as you understand the term "personal" in that context?

Miss GANDY. Quite often he would receive letters congratulating him on speeches and thanking him for a birthday remembrance.

Mr. MAGUIRE. From special agents in charge of field offices?

Miss GANDY. Yes. Just as he would any other friend.

Mr. MAGUIRE. I find your testimony very difficult to believe, Miss Gandy. I have no further questions.

Miss GANDY. That is your privilege.

Ms. ABZUG. I want to make myself clear to you, Miss Gandy.

In 1960 the officials—and there has been testimony in other places on this—the officials of the FBI who were responsible for dealing with Congress decided that it would be best if they did maintain a file on the Members of Congress and the Senate. That began and developed into a practice from about 1960 on. Is it your testimony that you never saw any of this information, or that there were never any such files kept in Mr. Hoover's office?

Miss GANDY. There were never any such files kept in Mr. Hoover's office.

Ms. ABZUG. Nor on any other officials?

Miss GANDY. I have no knowledge of that.

Ms. ABZUG. Where would lists like that be kept other than in Mr. Hoover's office?

Miss GANDY. I have no idea.

Ms. ABZUG. I have no further questions. Thank you, Miss Gandy. Thank you for coming here this morning.

Mr. Felt and Mr. Mohr, will you please come forward?

[The witnesses were duly sworn.]

Ms. ABZUG. Mr. Mohr, how long have you been associated with the FBI and in what capacity?

STATEMENT OF JOHN P. MOHR, FORMER ASSISTANT TO THE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; AND W. MARK FELT, FORMER ASSOCIATE DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Mr. MOHR. I started work with the FBI on October 2, 1939. I began as a special agent. I ended on June 30, 1972, when I was Assistant to the Director in charge of the administrative side of the Bureau.

Ms. ABZUG. Would you tell us in detail how you learned of the death of Mr. Hoover?

Mr. MOHR. Miss Gandy called me on the day that Mr. Hoover died. As I recall it was a few minutes after 9 o'clock.

Ms. ABZUG. Nine o'clock what time?

Mr. MOHR. A.M.

She said that Mr. Tolson had called her and told her that Mr. Hoover had died and requested, that is, that Mr. Tolson requested that I notify the Attorney General and also make arrangements for Mr. Hoover's funeral.

I immediately called the Attorney General, that is, the Acting Attorney General, Mr. Kleindienst, and furnished him with that information.

Ms. ABZUG. What information?

Mr. MOHR. The information that Mr. Hoover had died that morning.

Subsequent thereto, he asked me to come down to his office. It was some time during that morning. He asked me to secure Mr. Hoover's personal office.

I asked him if he meant his actual personal office, and he said that he did mean that.

I asked him that bearing in mind that I am sure he had been into Mr. Hoover's office and that Mr. Hoover occupied a large suite such as he did, and if I was going to secure all the offices I would have to kick a lot of people out of their offices.

He made it clear that he was talking about the personal office. I wish to point out that Mr. Gray was sitting very close to me when he told me this.

Ms. ABZUG. When who told you this?

Mr. MOHR. When Mr. Kleindienst told me that.

Ms. ABZUG. Not his suite of offices, just his personal office?

Mr. MOHR. Yes.

Ms. ABZUG. What would be the purpose of doing that?

Mr. MOHR. I do not know. That is a question you have to ask Mr. Kleindienst. I did what he told me to do. I went up and I had the locks changed on Mr. Hoover's personal office. There were two entrances. I kept the keys. I wrote a memorandum. Incidentally, he had asked me to write him a memorandum and tell him when I had done it.

I wrote a memorandum and told him that I had done it.

Ms. ABZUG. You wrote Mr. Kleindienst a memorandum and told him what you did pursuant to his instructions?

Mr. MOHR. Correct.

Ms. ABZUG. What was the date of that memorandum?

Mr. MOHR. It was either the 2d or 3d of May. It was possibly the morning of the 3d of May.

Ms. ABZUG. You spoke to Mr. Kleindienst on May 2?

Mr. MOHR. Correct.

Ms. ABZUG. Then you wrote him a memorandum on May 3?

Mr. MOHR. May 2 or 3.

Ms. ABZUG. What did that memorandum contain?

Mr. MOHR. It was very brief. I told him that in accordance with his instructions that I had secured Mr. Hoover's personal office and that I had the keys.

Ms. ABZUG. Do you have a copy of that memorandum?

Mr. MOHR. I do not.

If there is a copy in existence it would be in the Bureau's files.

Ms. ABZUG. I want to make sure that this is clear. You have said that it was only his personal office that Mr. Kleindienst directed you to seal off. You did that by changing the locks, is that correct?

Mr. MOHR. I did not change the locks. I had the locks changed.

Mr. ABZUG. Who did that?

Mr. MOHR. I had one of the fellows in the laboratory come down and change the locks for me.

Ms. ABZUG. Who else in the office knew that that was being done?

Mr. MOHR. Knew that I had the locks changed?

Mr. ABZUG. Yes.

Mr. MOHR. I am sure that Miss Gandy knew it because she was not going to get in there after that.

Ms. ABZUG. Was there ever any response from the memorandum that you sent to Mr. Kleindienst?

Mr. MOHR. No.

Ms. ABZUG. Do you know if he received it?

Mr. MOHR. I have no idea.

Ms. ABZUG. What about the files in the offices that had been described. What did you do with respect to those files?

Mr. MOHR. What about them?

Ms. ABZUG. Did you request or order Miss Gandy on or about May 2 to cull Mr. Hoover's personal files or words to that effect?

Mr. MOHR. I gave Miss Gandy no instruction with respect to any of the files in the office. She had told me that Mr. Tolson had called her and told her that she should turn over the OC files to Mr. Felt, and that Mr. Tolson had told her to continue her culling and destruction of Mr. Hoover's personal files.

Ms. ABZUG. Mr. Felt, prior to Mr. Hoover's death did you receive or acquire any FBI records which you kept in your office?

Mr. FELT. I think you are referring to a situation which occurred 4 or 5 months prior to this time when Mr. Hoover instructed me to collect and maintain in my office any files that were being maintained by any of the Assistant Directors.

I did collect some files, some from Mr. Mohr and some from the other Assistant Directors.

Ms. ABZUG. What capacity were you at this time?

Mr. FELT. I was Mr. Tolson's assistant, Deputy Associate Director.

Ms. ABZUG. What files were you asked to collect?

Mr. FELT. I was asked to contact all of the Assistant Directors and to determine whether or not they were maintaining any files and any ticklers of a confidential nature which he felt should be moved over to me.

I did that. I wrote a memorandum. Mr. Hoover instructed that I personally take custody of those files.

I got about two file cabinets.

Ms. ABZUG. By what authority do the Assistant Directors keep files in their offices?

Mr. FELT. They have no authority to keep a regular Bureau file. For them to do so they would ordinarily have to get approval from Mr. Hoover.

This is done sometimes. For example, the Watergate investigative file was kept in the office of the supervisor who was handling it.

But ordinarily, regular files should not be kept in the office of the Assistant Director, other than for what use he might be making of them at the time.

Ms. ABZUG. Among those files which you got in that period before Hoover died, were there files on Members of Congress?

Mr. FELT. I do not think so. There was one file cabinet or one file drawer that I received which I did not inventory and I did not examine. I simply locked it up.

Ms. ABZUG. Apparently there is a long gap between testimony given between one part of this Department and the other. Attorney General Levi I think testified that there were 17 files on Members of Congress that were filed in the Hoover office, that is, in the OC files. I am just assuming that that is what some of those files were doing, kicking around in various assistants' offices. "Let us see what this Member of Congress has to say about this. Let us see what we can do about this Member of Congress." "Let us see if we can give this person who does not agree with us a little trouble."

Mr. FELT. I cannot answer that.

Ms. ABZUG. No, of course not. What other purpose would you have for having any files?

Mr. FELT. I have no idea.

Ms. ABZUG. You just stated there is no reason, nor is it authorized for any Deputy Assistant to have files which are part of the Bureau's records in their possession, right?

Mr. FELT. I think we ought to straighten that out a little bit.

Ms. ABZUG. Let us do that. We are in the process of doing it. That I can assure you.

Mr. FELT. I will try to help.

Ms. ABZUG. I am looking forward to it.

Mr. FELT. The reason I brought up this with your staff investigators was because I thought it would help you clarify the fact that of the files which I got from Mr. Hoover, there were no files to my recollection on Congressmen or Senators.

But I did point out that I had previously received one file drawer of files from one of the Assistant Directors which I did not inventory, and which may be the files or folders to which you are referring.

Ms. ABZUG. Why were these not inventoried when you collected them?

Mr. FELT. I was designated as the custodian. I maintained them under a combination lock, but I did not have time to inventory them.

Ms. ABZUG. Is not the custodian usually the person who would take an inventory of anything that you take into your custody?

Mr. FELT. I did not take an inventory.

Ms. ABZUG. You did not even look at them?

Mr. FELT. I glanced at the file cabinet.

Ms. ABZUG. What did they have in them?

Mr. FELT. I do not know.

Ms. ABZUG. How old are you, Mr. Felt?

Mr. FELT. I am 50—I should have let that stand the way it was. I am 62.

Ms. ABZUG. You look very well for your age.

It is not that long ago.

You took files from people who were maintaining them because they were unauthorized.

Mr. FELT. Not necessarily. Mr. Hoover told me to maintain them. Rather than have them spread around four or five offices he told me to maintain them.

Ms. ABZUG. It is easier to have them in one place.

Mr. FELT. It is better.

Ms. ABZUG. It is easier to get at.

It would strike me that it is quite strange that a custodian would not look in the file or even bother to index them.

Mr. FELT. It may strike you as strange, but I did not inventory them.

Ms. ABZUG. Is that what your instructions were?

Mr. FELT. I did not have any instructions one way or the other. I was simply to take them and maintain them.

Ms. ABZUG. That strains credulity.

Mr. Mohr, as the man in charge of the Bureau's administrative matters, were you familiar with the nature of the files that were stored in Mr. Hoover's office?

Mr. MOHR. I had some general knowledge.

Ms. ABZUG. Did you do anything about some of these assistants having their own little goodies there?

Mr. MOHR. Yes; I had a few goodies of my own.

Ms. ABZUG. What were the nature of your goodies?

Mr. MOHR. They were files that I maintained that were not in the record of the Bureau's files, which were contacts that I had. If you are a smart investigator, and you should be one if you are going to be in this business, you should have your own sources and keep them to yourself.

Ms. ABZUG. You do not let the other fellow know?

Mr. MOHR. That is correct.

Ms. ABZUG. We keep this to ourselves?

Mr. MOHR. Correct.

Ms. ABZUG. That strains credulity also, but at least you are telling me something.

What else did you keep there aside from sources of information?

Mr. MOHR. That was about it. I did not have many. I think it was only about two or three.

Ms. ABZUG. Did you have any knowledge as to what the other people had?

Mr. MOHR. No; I did not.

Ms. ABZUG. What about the categories of files and indices that were kept in the suites of offices? How would you describe them?

Mr. MOHR. Mr. Hoover's office?

Ms. ABZUG. Are you familiar with the contents of the files in those offices?

Mr. MOHR. I know generally. I have gone over this whole business with the Senate select committee. Somewhere along the line my memory has been refreshed.

I do recall that Miss Gandy maintained files in her office. These were personal files. There were some Bureau files which she had there. I remember seeing one of them.

Ms. ABZUG. What was that on, do you know? What kind of stuff was it?

Mr. MOHR. This particular file was on Richard Nixon.

Ms. ABZUG. You had a file on Richard Nixon?

Mr. MOHR. It was in Miss Gandy's office and Mr. Hoover maintained it there. He took it out of the regular files so the clerks would not go browsing through it. It was the Bureau's investigative file of Mr. Nixon when he applied for the job of special agent in the Bureau.

I was requested to go through and find out why we did not hire Mr. Nixon. I did.

Ms. ABZUG. Where was this file kept?

Mr. MOHR. It was kept in Mr. Hoover's office.

Ms. ABZUG. That information was there for how long?

Mr. MOHR. I do not know.

Ms. ABZUG. Was there any other information in it?

Mr. MOHR. In that file?

Ms. ABZUG. Yes.

Mr. MOHR. No. It was all about the investigation of Mr. Nixon.

Ms. ABZUG. How big a file was it?

Mr. MOHR. About one-half inch thick.

Ms. ABZUG. So it had a lot of information in it about Mr. Nixon?

Mr. MOHR. I would say at the time he was a young man about 25 years old. He accumulated some background information which we had investigated.

Ms. ABZUG. You showed three-quarters of an inch thickness. That is a lot of file for a man who is only 25 years old.

Mr. MOHR. I did that, and I said one-half inch.

Ms. ABZUG. We will not argue about a quarter of an inch.

You know what happens with these kinds of mathematical discussions.

Did you read that file?

Mr. MOHR. Yes. From cover to cover.

Ms. ABZUG. Was it your practice to read files in the suite?

Mr. MOHR. I read it in my own office.

Ms. ABZUG. You took it out of Mr. Hoover's suite and you took it to your office. When?

Mr. MOHR. It was handed to me by Mr. Tolson who was the Associate Director of the FBI.

Ms. ABZUG. When?

Mr. MOHR. It was while Mr. Nixon was still the President.

Ms. ABZUG. It was during his term of office?

Mr. MOHR. That is correct.

Ms. ABZUG. Why would you want to read his file while he was President of the United States?

Mr. MOHR. I told you why already.

Ms. ABZUG. Mr. Tolson said read it, it is good reading material?

Mr. MOHR. He told me to read it and find out from the file why we did not hire him as a special agent when he applied.

Ms. ABZUG. He was thinking he might need a job. What did you then do with the file after you read it?

Mr. MOHR. I gave it back to Mr. Tolson.

Ms. ABZUG. Do you have any idea what he did with the file?

Mr. MOHR. I have no idea.

Ms. ABZUG. Did Mr. Tolson explain why he was interested in having you find out why Mr. Nixon was never hired by the agency?

Mr. MOHR. The way he asked me, I got the impression that it was curiosity.

Ms. ABZUG. Did you write a memorandum as to what you found?

Mr. MOHR. No, I told him orally.

Ms. ABZUG. What was in the file?

Mr. MOHR. I told him why we did not hire him.

Ms. ABZUG. Why not?

Mr. MOHR. Because at the time he applied and the investigation was completed, the Bureau did not have any money to hire him. Later on when the money became available, he had already gotten another job. He had a clean file.

Ms. ABZUG. How about any Members of Congress? Have you read any of their files?

Mr. MOHR. Yes, I have.

Ms. ABZUG. How many?

Mr. MOHR. I would hesitate to say. I will have to say this.

In deference to what Mr. Sullivan has given to this committee, I must take issue with it, that the vast majority of the people who came to this Congress had excellent records and they had no derogatory background data.

Ms. ABZUG. Where were these files?

Mr. MOHR. The files of Members of Congress were put in the regular files, scattered throughout the regular files system. Some of them have individual files. If they had been investigated by the Bureau for violation of a Federal criminal law, then they would have had a file on them personally. Many of them corresponded with the Bureau, and they would have a file.

Ms. ABZUG. Were there any in Mr. Hoover's suite?

Mr. MOHR. Not to my knowledge.

Ms. ABZUG. Did you hear of any after being up there?

Mr. MOHR. You are asking me for hearsay?

Ms. ABZUG. Did anybody tell you? All right.

Mr. MOHR. Somebody told me there was a file on a Congressman who had been involved in a situation with a group which was shaking down homosexuals, and Mr. Hoover retained that file in his office.

Ms. ABZUG. Who told you about that?

Mr. MOHR. That was one of my confidential sources.

Ms. ABZUG. One of those two cards that you had.

Mr. MOHR. Correct.

Ms. ABZUG. Did anybody else tell you anything else about files?

Mr. MOHR. Nobody told me anything derogatory about you.

Ms. ABZUG. I have lots of files on me. There is nothing derogatory. They are all in the exercise of a private citizen, and as a Member of Congress, that is, exercising the responsibilities of both citizenship and representation. Nevertheless, you do keep files. And most of the Members of Congress know that they have files of one kind or another on them. But we have been through this before.

The question is why? In any case, how were the files in Mr. Hoover's office indexed?

Mr. MOHR. Miss Gandy, I recall, had an index card on each one of the files that she had in her office. She maintained that in an indices. I believe she used a different color for Mr. Hoover's personal correspondence as opposed to the so-called O.C. file.

Ms. ABZUG. Did you ever examine any documents in Mr. Hoover's house subsequent to his death?

Mr. MOHR. What kinds of documents?

Ms. ABZUG. I am asking you.

Mr. MOHR. You will go for anything?

Ms. ABZUG. That is right.

Mr. MOHR. I believe I did look at some of his files having to do with his stock purchases, and having to do with his purchases of interests in oil wells, I think I have also looked at some of his income tax returns. I do recall looking through the file on his dogs.

Ms. ABZUG. Why would you do that?

Mr. MOHR. Why would I do what?

Ms. ABZUG. Were you one of the executors?

Mr. MOHR. No. No, I was not. Mr. Tolson was the executor of Mr. Hoover's estate.

Ms. ABZUG. Then why would you be looking through the files concerning matters of an estate nature?

Mr. MOHR. I assisted Mr. Tolson in the administration of the estate. I maintained liaison with his attorney, and with Riggs National Bank which actually handled the work of the estate as his agent.

Ms. ABZUG. When you looked at all these papers, were they segregated in a separate place?

Mr. MOHR. All of the files having to do with his stocks were in one drawer, and all the files having to do with his investments were in a file in one place. The bank records were in another place. Everything, I would say, was very orderly.

Ms. ABZUG. He had a very efficient executive secretary.

Mr. MOHR. I would agree to that.

Ms. ABZUG. When you were there, did you see any other files?

Mr. MOHR. I saw files that belonged to Mr. Tolson. He had his own files there having to do with his stock purchases, his investments in oil, his bank records, and his income tax returns.

Ms. ABZUG. Miss Gandy testified that there were maybe 35 or 40 file drawers and that they consisted of papers transferred from the suite to the house. Were any of those files there when you looked at the segregated listing you have just mentioned?

Mr. MOHR. They were not there, no. I did not go looking through any files until shortly after I retired, which was on June the 30th.

Ms. ABZUG. You never went to Mr. Hoover's house between May 2 and June 30?

Mr. MOHR. Yes; the files, however, were maintained in the basement and most of my visits were upstairs with Mr. Tolson personally.

Ms. ABZUG. At any time subsequent to Mr. Hoover's death, did you take any papers or documents from the residence of Mr. Hoover?

Mr. MOHR. No. Excuse me, if you are referring to documents that belonged to Mr. Tolson I would have to say yes, that I did take documents that belonged to Mr. Tolson. This was correspondence that he received.

Ms. ABZUG. What were they?

Mr. MOHR. They were letters that he had received from various sources.

Ms. ABZUG. What were they doing in Mr. Hoover's files?

Mr. MOHR. They were not with Mr. Hoover's files. They were with Mr. Tolson's files.

Ms. ABZUG. In what capacity were you working on Mr. Tolson's files?

Mr. MOHR. I was working as a friend who was assisting him in connection with the administration of Mr. Hoover's estate.

Ms. ABZUG. Did he also take his files over to Mr. Hoover's house?

Mr. MOHR. Yes.

Ms. ABZUG. When did he do that?

Mr. MOHR. I do not know. It was shortly after he moved in, I believe. I do not know when that was.

I would say it as a month or so after Mr. Hoover died.

Ms. ABZUG. When did he move in there?

Mr. MOHR. I would say a month or so after Mr. Hoover died.

Ms. ABZUG. Did you participate in the decision to remove the files from Mr. Hoover's suite to his residence?

Mr. MOHR. No.

Ms. ABZUG. Do you know who authorized that?

Mr. MOHR. I beg your pardon?

Ms. ABZUG. Who authorized the removal of those files from the suite to the residence?

Mr. MOHR. I do not know that.

Ms. ABZUG. Is it possible that some files that really belonged to the Bureau were transferred in that way?

Mr. MOHR. I have no idea.

Ms. ABZUG. You heard Mr. Felt testify, for example, that some people maintained files that should not have been maintained. You have heard some testimony this morning about files which were marked personal, and turned out to be matters of a significant and political nature.

How do we know that some of those files dealing with Bureau business were not transferred from his office to his residence?

Mr. MOHR. I do not know that.

Ms. ABZUG. Do you not think it is your responsibility to have known that?

Mr. MOHR. Absolutely not.

Ms. ABZUG. That was your job?

Mr. MOHR. No. The Acting Director of the FBI had that responsibility.

Ms. ABZUG. That did not matter.

Mr. MOHR. I certainly was not the Acting Director.

Ms. ABZUG. These were official files maintained as personal files which had just been transferred in cartons from an office of the Director of the agency who has just died, to his own house, and you did not think it was any concern of yours as to what was in those files?

Mr. MOHR. I do not think that is a correct statement, as to what Miss Gandy said was transferred to the house. As I recall her testimony, I was in the room and I am a little hard of hearing, but not too bad. I thought she said they were personal files.

Ms. ABZUG. That is what she said, but there is also evidence that among the personal files were files that at one time had been marked personal which indeed were more than personal.

We demonstrated that by reading a number of files while you were in the room which had originally been marked personal, and which were subsequently transferred and marked "O. & C." Miss Gandy testified that she went from Z to J and that all those files were personal files. She worked on it from the beginning of May until July, which is 3 months.

Within that time it takes a lot of energy, I know, to read files but it is not clear to me that you have a different responsibility than Miss Gandy had.

You had a responsibility to determine whether, among those files, were files which belonged in the Bureau's records.

Mr. MOHR. That is what you are saying.

Ms. ABZUG. I am saying that.

Mr. MOHR. You are not saying it correctly.

Ms. ABZUG. I am saying it as chairwoman of this subcommittee. What was your function?

Mr. MOHR. I told you.

There was an Acting Director. That was his office. It was his responsibility.

Ms. ABZUG. Who was that?

Mr. MOHR. That was Mr. Gray.

It was his responsibility to determine what, if anything, was taken out of that office. I had nothing to say about it any more than when

Mr. Hoover was there. I had no administrative responsibility for the files in Mr. Hoover's office when he was alive, nor when he was dead.

Ms. ABZUG. But the question remains that as the person in charge of the Bureau's administrative matters, were you not responsible generally for recordkeeping?

Mr. MOHR. I was generally charged with recordkeeping because the files division was under my supervision.

Ms. ABZUG. That is what I am talking about.

Mr. MOHR. You are talking about something else. You are talking about Mr. Hoover's files. I am telling you they were not under my supervision. They were not under my control. They never were, alive, dead, or when Gray had them.

Ms. ABZUG. But they were Bureau files that were up there.

Mr. MOHR. They were not Bureau files. The Bureau files that were there Miss Gandy had been instructed, and she told me she had turned them over to Mr. Felt.

Ms. ABZUG. Among the FBI documents that were released by one of the other committees a few days ago, was an eight-page memorandum from C. D. DeLoach to you dated August 29, 1964, which dealt with the FBI special squad activities concerning the 1964 Democratic National Convention.

Was such a document filed in the Bureau's general file?

Mr. MOHR. I do not know.

Ms. ABZUG. Did you ever see such a document?

Mr. MOHR. I do not recall that I saw it.

Ms. ABZUG. Where would a document like that be filed? This was addressed to you.

Mr. MOHR. I would think that particular document should have been filed in the regular files of the Bureau. Incidentally I have not seen that document. So, you are talking about something I have not seen, even though it may have been released.

Ms. ABZUG. I have a copy of it. I would be glad to show it to you.

Mr. MOHR. I think if you are going to ask me any questions it would be helpful if I got a peek at it.

Ms. ABZUG. We are in the process of getting it for you. Without objection, the memorandum we are talking about will be introduced into the hearing record at this point.

[The memorandum follows:]

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. Mohr

DATE: August 29, 1964

FROM : C. D. DeLoach

SUBJECT: SPECIAL SQUAD
ATLANTIC CITY, NEW JERSEY
DEMOCRATIC NATIONAL CONVENTION
AUGUST 22 - AUGUST 28, 1964

MAJOR ACCOMPLISHMENTS:

In connection with the assignment of the special squad to Atlantic City, New Jersey, 8/22-28/64 at the direction of the President, I wish to report the successful completion of this assignment. By means of informant coverage, by use of various confidential techniques, by infiltration of key groups through use of undercover agents, and through utilization of agents using appropriate cover as reporters, we were able to keep the White House fully apprised of all major developments during the Convention's course.

For example, through informant coverage and by controlling the situation, we were able to prevent a potentially explosive stall-in and sit-in demonstration planned by ACT and By counseling Messrs. Jenkins, Carter and Moyers, we convinced them that they must make major changes in controlling admissions into the Convention Hall and thereby preclude infiltration of the illegal Mississippi Freedom Democratic Party (MFDP) delegates in large numbers into the space reserved for the regular Mississippi delegates. Through our counterintelligence efforts, Jenkins, et al., were able to advise the President in advance regarding major aims of the MFDP delegates. The White House considered this of prime importance.

Through our highly confidential coverage of Martin Luther King, Jr. together with similar coverage we established on the headquarters of CORE-SNCC, we were in a position to advise the White House in advance of all plans made by these two sources in an effort to disrupt the orderly progress of the Convention. This coverage was highly effective.

COVERAGE HIGHLIGHTS:

I feel this squad operated very effectively. Squad members averaged in excess of eight hours overtime daily. They approached each assignment as a

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CONTINUED-OVER

DeLoach to Mohr
 RE: Special Squad, Atlantic City, New Jersey
 Democratic National Convention
 August 22-28, 1964

challenge and with enthusiasm. The Agents were constantly alert to exploit opportunities for penetration of key dissident groups in Atlantic City and to suggest counter measures for any plans to disrupt the Convention.

Our informant coverage worked particularly well. With Bureau approval, I instituted coverage similar to that on King on CORE-SNCC headquarters at their Atlantic Avenue meeting hall. Our [redacted] successfully penetrated the headquarters of the MFDP delegation at the Gem Motel and the headquarters for their strategy meetings, which was located in the basement of the Union Baptist Temple Church.

Additionally, we utilized a highly successful cover through cooperation of the [redacted] furnished us credentials. I selected several of the members of the squad to utilize this cover. As an example, one of our "reporters" was able to gain the confidence of [redacted]

Our "reporter" was so successful, in fact, that [redacted] was giving him "off the record information" for background purposes, which he requested our "reporter" not to print.

One of our [redacted] successfully established contact with [redacted] Saturday night, August 22nd, and maintained this relationship throughout the course of the entire Convention. By midweek, he had become one of [redacted] confidants. This, of course, proved to be a highly valuable source of intelligence since [redacted] was constantly trying to incite racial groups to violence.

DISSEMINATION OF INFORMATION:

During our Convention coverage, we disseminated 44 pages of intelligence data to Walter Jenkins. Attached for your information is a copy of these daily summaries. Additionally, I kept Jenkins and Moyers constantly advised by telephone of minute by minute developments. This enabled them to make spot decisions and to adjust Convention plans to meet potential problems before serious trouble developed.

In connection with communications, as you know, we arranged for a leased line between the Bureau and our control post in Atlantic City. We also established a private line for exclusive use by our informants. [redacted] informants dispatched from other cities and Newark informants used the phone to submit their oral reports. This post was, of course, manned on a 24-hour basis.

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During the period when the Convention was actually in progress, we established a secondary command post at the Convention Hall Rotunda operated by an Agent using his "reporter" cover. As you know, the boardwalk was the center of agitation by dissident elements. Throughout the course of the Convention, pickets were active in the area immediately in front of the Convention Hall entrance. We necessarily kept these people under close observation.

PRELIMINARY PREPARATION:

Prior to the squad's departure for Atlantic City, we secured all available pertinent background information on the dissident groups and their leaders who were expected to be present. In addition, we took blind memoranda with us which were prepared and approved prior to our departure. This proved most helpful. On Wednesday morning, Mr. Jenkins urgently requested background information on [redacted] who had [redacted] within the MFDP delegation. The White House also requested a blind memorandum on [redacted] Within 15 minutes of the request, the [redacted] blind memoranda were furnished to Jenkins. He was highly pleased and said [redacted] as you will recall has an arrest record. [redacted]

We also prepared thumbnail sketches on all key dissident groups expected at the Convention and we maintained separate files on the activities of King, Communist Party groups, area hoodlums, informants, the MFDP and other groups. This was done in order that we could maintain separate running accounts on each major disruptive organization which was present.

LIAISON:

On arrival in Atlantic City we immediately established necessary liaison with the Secret Service, Atlantic City Police Department, New Jersey State Highway Patrol and with the men directing Convention activities. We also established contacts with [redacted] to arrange for courier service between the Seat of Government and our headquarters in Atlantic City.

DAILY COUNTER MEASURES BY SPECIAL SQUAD:

As an example of the type of problems encountered by this special squad in Atlantic City, following is a brief resume of some of the situations which developed during the Convention:

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 RE: Special Squad, Atlantic City, New Jersey
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Monday, August 24, 1964

On Sunday morning, August 23, 1964, we located a truck on Pacific Avenue carrying a burned-out car, a huge burlap-wrapped cross and a large church bell. Rumors swept Atlantic City that the car was actually the one used by Schwerner, Goodman and Chaney. Shortly after its appearance this truck was placed on a parking lot close by Convention Hall. We quickly established the fraudulency of these rumors and through police contacts we thwarted the racial group's plans to parade this burned car through Atlantic City streets.

On Monday, we furnished Mr. Jenkins details regarding the plans of CORE, the American Nazi Party, the Student Non-violent Coordinating Committee and initial plans of the MFDP.

Appropriate officials were notified of the intention of the Negro racial groups to establish a silent vigil on the boardwalk at the main entrance to Convention Hall. This vigil was to be maintained until a report was issued by the Credentials Committee regarding the seating of the MFDP delegates.

Tuesday, August 25, 1964

Jenkins was advised that Martin Luther King had prevailed upon to come to Atlantic City that day. We alerted White House representatives regarding compromise proposals for seating of the MFDP and furnished them information regarding plans of the Progressive Labor Movement groups, ACT and other dissident organizations. Martin Luther King attempted to arrange a rendezvous with a

of Philadelphia. Our sources reported that SNCC and CORE were attempting to secure tickets to gain entrance to Convention Hall. Through a highly confidential source, it was learned that CORE and SNCC had been advised that the President was bringing pressure to bear on the delegates of 15 states to preclude their support of a move to bring the Mississippi delegates issue to the floor of the Convention.

Wednesday, August 26, 1964

We submitted reports reflecting that the militant members of MFDP under the leadership of were revolting against the leadership of Martin Luther King and . We advised Jenkins that the MFDP delegates had flatly rejected the compromise proposal to seat the MFDP delegation. We reported that

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was attempting to promote a stall-in to block access to Convention Hall. [] was instructed by [] to plan this demonstration and through our control of him we were able to completely thwart

We also alerted the White House in advance regarding the telegram prepared by ACT demanding amnesty for Harlem rioters and for Federal registrars to police Negro voting in the South.

In consultation with Convention planners, we pointed out serious gaps in controlling admission to Convention Hall which had permitted entrance of dissident elements on the Convention floor. Jenkins immediately placed these recommendations into effect.

Thursday, August 27, 1964

We determined Martin Luther King and his staff were departing from Atlantic City early Thursday morning, and appropriate officials were advised of this. We also reported efforts of CORE-SNCC leaders to secure uniforms of the Young ~~Officers~~ for Johnson groups and to utilize them for gaining entrance into Convention Hall. We were able to report that the number of participants of the silent vigil would dwindle rapidly. Although the demonstrations quieted down Thursday night, we were heavily involved in checking out the reports that a four-man group of Puerto Rican terrorists from New York were in Atlantic City in an attempt to assassinate the President.

MISCELLANEOUS:

For the benefit of the Domestic Intelligence and General Investigative Divisions, separate memoranda are being submitted regarding informant coverage. I am also recommending letters of appreciation to cooperative individuals whose efforts facilitated the squad's work in Atlantic City.

INFORMANT ACTIVITIES:

In connection with our Convention coverage, the special squad utilized the following sources:

EXCLUDED FROM symbol number informants from other offices;
 confidential sources from other offices;
 liaison source []

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 FBI.

Loach to Mohr

Special Squad, Atlantic City, New Jersey
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- / technical sources
- / special agents working in an undercover capacity
- / Negro informants
- / established sources in the Atlantic City area
- / Atlantic City informant ex 47600121
- / Atlantic City Security informants

Our source from [] was in the inner planning circles
Another source [] the Progressive Labor Movement delegates to
Atlantic City. Although the organization was inactive, we had sources in the []
groups. A Newark informant served [] of SNCC-CORE.

ORGANIZATIONS IN ATLANTIC CITY:

There was coverage on 15 separate organizations who were active in Atlantic City during the course of the Convention. The leading groups included:

- Mississippi Freedom Democratic Party (MFDP)
- Council of Federated Organizations (COFO)
- Congress of Racial Equality (CORE)
- Student Non-violent Coordinating Committee (SNCC)
- ACT
- Independent Citizens Committee
- American Nazi Party
- White Party of America
- W. E. B. Du Bois Clubs
- Communist Party, USA
- Women's International League for Peace and Freedom
- The Progressive Labor Movement

RECOMMENDATIONS:

(1) The majority of the following personnel averaged over eight hours per day during the five days the special squad was handling its responsibilities. They operated in a very competent fashion and it is, therefore, recommended that letters of commendation over the Director's signature be considered for them. If approved, these letters will be prepared by the Administrative Division. (A separate memorandum is

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(being furnished the Administrative Division regarding the specific duties handled by these employees.)

(2) A number of the following employees had only minor duties inasmuch as they were not used full-time on the special squad, however, in view of the quiet and efficient manner in which they handled their responsibilities, letters are believed deserved.

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RECOMMENDATIONS CONTINUED

DeLoach to Mohr
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(3) It is recommended that letters from the Director be given to the following personnel who assisted materially in the success of this operation:

*DeLoach should receive
a meritorious award*

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X

Ms. ABZUG. Did you ever see this before?

Mr. MOHR. I have no recollection.

Ms. ABZUG. As I explained earlier, we are really trying to figure out how we can help to run this Government in a way that complies with the law. We want to know what information is collected and what information should not be collected, where it should be filed, who is in charge of filing, whether there is access, that is proper access, and whether there is protection of privacy and whether there is freedom of information. So, I would like to ask you a few questions using that memorandum.

That's the memorandum to you. It's dated August 29, 1964, concerning the FBI's activity at the Democratic National Convention in Atlantic City.

For example, there is a reference on page 3 of the memorandum. It says, "In addition, we took blind memoranda with us which were prepared and approved prior to our departure." What's a blind memorandum?

Mr. MOHR. Where do you see that? On page 3?

Ms. ABZUG. Yes. It says page 3 on the bottom and it begins with "Preliminary preparation".

Mr. MOHR. A blind memorandum would be one that was not addressed to anyone, but merely carried the caption of the name of the subject possibly. Then, it would record what was in the files, the Bureau's files, in reference to that individual.

Ms. ABZUG. What was the purpose of it?

Mr. MOHR. That was so they would have available while they were in Atlantic City the data that was in the Bureau's files in connection with the inquiry that they were conducting in Atlantic City.

Ms. ABZUG. Where do these blind memorandums come from?

Mr. MOHR. They are a summary of information in the Bureau's files.

Ms. ABZUG. Where would they be filed?

Mr. MOHR. They probably would have been destroyed inasmuch as they were reiteration of material that was already in the files. It other words—

Ms. ABZUG. I see.

You just rip them up. Once you get them you would just rip them up. Correct?

Mr. MOHR. One of the things that you mentioned is to get rid of surplus material and this would be surplus.

Ms. ABZUG. That's a good way to do it. You have blind memoranda and you can get rid of it that way.

Mr. MOHR. I would like to make this clear again. I'm not saying this facetiously. The material is still in the files from which it was drawn. That was not torn up.

Ms. ABZUG. I understand.

Would that have come from the Bureau's central files?

Mr. MOHR. Correct. The regular files.

Ms. ABZUG. What kind of a system is the "Do Not File" system? I want you to know that I noticed in the filings of systems under the Privacy Act that you do not list the "Do Not File" system as one of your systems of records. Do you know what I'm talking about?

Mr. MOHR. You are not coming across to me.

Ms. ABZUG. Am I speaking loudly enough?

Mr. MOHR. Yes.

Ms. ABZUG. I am saying that under the Privacy Act of 1974, all Federal agencies are required to list all of the systems of records which they maintain.

I would like to know how you are going to maintain a file on a "Do Not File" system.

Mr. MOHR. How are you going to file a "Do Not File" system?

Ms. ABZUG. In other words, there are records that are not filed. They are marked, "Do Not File." Would you tell me where they go. If it says "Do Not File," where are those records kept?

Mr. MOHR. You know I would like to tell you, but Mr. McDermott is here. He has a long statement that is going to keep you awake for a long time. He goes over the whole history of that "Do Not File" system.

Ms. ABZUG. That's his area specialty.

Mr. MOHR. He is in charge of the Records Section. He has a statement.

Ms. ABZUG. I'm going to ask him about it.

In the meantime, so it will not be a total loss, I would like an answer to the question.

What happens with a thing that is marked "Do Not File"?

Mr. MOHR. A thing that is marked "Do Not File" is returned normally to the dictator. It is up to the dictator then to destroy that particular memorandum or to record thereon "File in the regular file".

In other words, if after the thing has served its purpose and he determines that it ought to go to a regular file, and it's not material that may be destroyed, then he can designate it for a regular file.

Otherwise, it's up to him to maintain it for a reasonable period of time and then destroy it. It is usually 90 days.

Ms. ABZUG. That is very interesting because if you recall earlier in the hearing we had a black-bag memorandum which was marked "Do Not File" and then it was marked "P.F." which is "Personal File".

It was a memorandum from a person other than Mr. Hoover and yet entered into Mr. Hoover's files.

How many of such "Do Not File" files do you suppose ended up there?

Mr. MOHR. I can only go by what Miss Gandy said. That's the only one that she knew ever got in there.

Ms. ABZUG. You don't know of any others. You were the person who was in charge of the Bureau's administration, and you don't know of any other files?

Mr. MOHR. I have to come back to what I said before. You are charging me with the supervision, the administration of Mr. Hoover's files in his office. I never had that responsibility. He never gave it to me.

Ms. ABZUG. Did he say that you could never look at the files?

Mr. MOHR. No; he never had to do that. I think I perceived his desires without ever putting him to the test.

Ms. ABZUG. You didn't want to invade his privacy?

Mr. MOHR. That's probably one of the reasons. I just knew better than to snoop around in there.

Ms. ABZUG. You might have found a file on yourself.

Mr. MOHR. I don't think so. I think that's all in my personal file. That is pretty large.

Ms. ABZUG. You were present this morning, Mr. Felt, when Miss Gandy testified concerning Mr. Pat Gray and the Hoover files.

To your knowledge, what role did Pat Gray play in the disposition of Mr. Hoover's files?

Mr. FELT. Very little.

To my knowledge, he did not pay much attention to it at all except that he did express concern that he wanted me to take custody of the files when Miss Gandy sent them to me and I was to maintain them.

To my knowledge, he never looked at them. I'm not contradicting Miss Gandy because I was not there, but when I had them in my possession, I repeatedly tried to get him to come over and look at them.

Ms. ABZUG. What files did you have?

Mr. FELT. I'm talking about the O.C. files that Miss Gandy sent to me from Mr. Hoover's office. I wanted Mr. Gray to look at them.

Ms. ABZUG. Mr. Mohr, would you like to get into this?

Mr. MOHR. I think Mr. Felt is talking about one thing and Miss Gandy is talking about something else.

Miss Gandy said that Mr. Gray looked at some of the personal correspondence files, not the O.C. files. She never said he looked at the O.C. files, to my recollection.

I think I heard that pretty clearly.

Mr. FELT. Yes; I heard it that way.

What Miss Gandy gave to me were the official and confidential files.

Ms. ABZUG. Did Mr. Gray look at those?

Mr. FELT. He never looked at those, no.

I repeatedly tried to get him to because I could not do anything with them until he had had a chance to look at them. He never looked at them.

Ms. ABZUG. What did you do with them?

Mr. FELT. I maintained them under lock and key.

Ms. ABZUG. Where are they now?

Mr. FELT. Of course, I can't say because I've been gone for 2½ years. At the time I left, they were in the office of the Associate Director. I presume they are still there in that office. They've probably been moved over to the new building. Those files are there; they've been inventoried. So, it is possible to find out exactly what they are.

Ms. ABZUG. Did you have them inventoried?

Mr. FELT. I had them inventoried, yes. I didn't do it personally.

Ms. ABZUG. Did you look at the inventory at any time?

Mr. FELT. Yes; I looked at the inventory.

Ms. ABZUG. How did it break down?

Mr. FELT. I'm not sure I understand your question.

What was in them?

Ms. ABZUG. Yes.

Mr. FELT. I recall no files or folders on Congressmen or Senators at all.

Ms. ABZUG. What was the nature of the files?

Mr. FELT. I recall various things that I assume Mr. Hoover had taken into his personal office of a sensitive nature to prevent possible

embarrassment to that person; in other words, to protect their privacy from having it being invaded by a clerk or someone who should not be entitled to it.

I could mention some of the files I recall, but I don't think I should.

I think we would be invading the privacy of people whose files we were there to protect.

Ms. ABZUG. It's a question of whose privacy is being invaded by whom.

Do you think it's private for the FBI to engage in collecting data about individuals' personal lives? Isn't that an invasion of privacy?

Mr. FELT. Not if it's done with a correct purpose.

For example, one of the files that I brought into my office was a file on George McGovern when he was nominated for the Democratic presidency. I did not feel that a file on a potential Presidential candidate should be available for review by clerical employees. Mr. Mohr mentioned that Mr. Hoover had Mr. Nixon's file. I'm sure he had it there for the same reason.

Ms. ABZUG. Let me ask you a question about that.

Where was McGovern's file? In the O. & C. file?

Mr. FELT. No, it was in the regular files when I got it.

Ms. ABZUG. You went into the regular file and put it in your collection?

Mr. FELT. I asked somebody to do it.

Ms. ABZUG. Why?

Mr. FELT. Why did we investigate George McGovern? This is one of the problems, I think, that we should get into.

The FBI has files on a lot of people. The FBI did not collect—

Ms. ABZUG. Mr. Mohr, how many would you say you have?

Mr. FELT. I would like to finish that statement.

Ms. ABZUG. I will give you a chance to finish it.

Mr. MOHR. Mr. McDermott is going to give you all that data.

Ms. ABZUG. I know.

Mr. MOHR. 6 million files.

I think there is something like 58 million index cards.

When you think of that in terms of the population of the United States, I don't want somebody running out of here and putting it on TV that the FBI has files on 58 million people. That is not correct.

I may have been investigated 49,000 times and I would be in there each time I am investigated. Each time my name appeared in file there would be an index card to show exactly where that reference is in that file.

Mr. McDermott I feel sure will be able to break that figure down into the number of people represented in the files. It's not 58 million.

Does that answer your question?

Ms. ABZUG. Somewhat.

It is not very reassuring.

Mr. FELT. May I finish my statement?

Ms. ABZUG. Yes.

Mr. FELT. George McGovern was appointed by President Kennedy to a high governmental position. When that is done customarily throughout the years the Presidents have requested the FBI to conduct a full background investigation.

The Presidents don't always wait until the investigation is completed, but they always request that it be done.

This is the reason that the FBI has a file on George McGovern.

Ms. ABZUG. I am going to read you a list of names, Mr. Mohr. I would like to know where we would be likely to find their files. Would they be official or confidential?

Martin Luther King, Jr.?

Mr. MOHR. Martin Luther King's file would be in the regular file.

Ms. ABZUG. What?

Mr. MOHR. In the regular fileroom.

Ms. ABZUG. Mr. Felt, was there an O. & C. file on Martin Luther King?

Mr. FELT. No; there was not.

Ms. ABZUG. How about Franklin Roosevelt?

Mr. FELT. There was no file on Franklin Roosevelt to the best of my recollection.

Ms. ABZUG. John F. Kennedy?

Mr. FELT. I think there was one on him and I think it related to correspondence concerning liaison between the FBI and the White House.

Ms. ABZUG. That was in the O. & C. file?

Mr. FELT. Yes. It was strictly an administrative file.

Ms. ABZUG. Why was it marked "Official & Confidential"?

Mr. FELT. I cannot answer that question.

Ms. ABZUG. What about Richard Nixon? We went into that. Was there an official and confidential file on Richard Nixon?

Mr. FELT. No.

Ms. ABZUG. What was the one that you had, Mr. Mohr?

Mr. MOHR. It was a regular Bureau applicant file when he applied for the position of special agent in the FBI.

Ms. ABZUG. How about the subject matter of the official and confidential files? What kinds of subjects are dealt with in the official and confidential files?

Mr. FELT. Some of it would be embarrassing to the person involved if it were disclosed. Some of it was very routine; was administrative. For example, liaison between the Bureau and the White House but I don't specifically want to name names of files I recall.

Ms. ABZUG. Why not?

Mr. FELT. I think this is a matter involving the privacy of the person whose name is in that file. This is what you are trying to protect.

Ms. ABZUG. Absolutely.

What was generally in the files?

Mr. FELT. I thought the material was rather routine, really. I examined it personally.

Ms. ABZUG. What subject matter? Describe why they were there, without mentioning their names?

Mr. FELT. There must have been some information, or some investigation, or some allegation that was made concerning an individual and the reason that it was there as far as I am concerned was that Mr. Hoover felt that the information was embarrassing to the individual. Particularly if he was a high placed individual.

I am convinced that this is true, that Hoover was trying to keep that file, which was probably unsubstantiated, out of the regular channels so that clerks and messengers and so forth would not see it and not have access to it.

Ms. ABZUG. Mr. Moffett.

Mr. MOFFETT. Mr. Mohr, I would like to focus on the question of Patrick Gray for a moment.

You made a statement in response to a question from the chairwoman that it was Gray's responsibility as Acting Director to look into whether materials which might have been taken from the Bureau included Bureau information. You said that was not your responsibility.

Mr. MOHR. I was talking about material in the Director's office. Let's get that straight. You didn't say that.

Mr. MOFFETT. You said that was the only material taken.

Mr. MOHR. I want to keep this thing in perspective. I am talking about the Director's personal office.

Mr. MOFFETT. I understand that. But, is it your testimony that other than that material from the office was taken?

Mr. MOHR. No. The implications might immediately arise with the media people here that you are talking about the entire Bureau.

Mr. MOFFETT. No; I say the material taken from the Bureau. Your testimony is the only material taken from the Bureau was that taken from the Director's office.

Mr. MOHR. That's correct.

Mr. MOFFETT. There is no dispute.

We are not in disagreement.

How do you feel that Mr. Gray fulfilled his responsibility of getting to the bottom of this?

Mr. MOHR. It's not my responsibility to measure his responsibility.

Mr. MOFFETT. What is your opinion of his behavior with regard to this matter?

Mr. MOHR. I would rather not give my opinion about Mr. Gray if you don't mind.

I think I am entitled to my opinion under this Freedom of Information Act. I'm going to exercise it right now.

Ms. ABZUG. You are entitled to your opinion whether or not there is a Freedom of Information Act.

Mr. MOHR. Correct.

Mr. MOFFETT. Did you and Mr. Gray have disagreements after Mr. Hoover's death?

Mr. MOHR. Yes.

Mr. MOFFETT. Over what kinds of matters related to the subject at hand here?

Mr. MOHR. I'm not hesitant to tell you about that.

Mr. Gray came up to see me, that is the afternoon that Mr. Hoover died, I believe. He wanted to know where the secret files were.

I told him that there were no secret files that I knew of.

Mr. MOFFETT. He said specifically secret files?

Mr. MOHR. Yes.

Mr. MOFFETT. This is not a new category?

Mr. MOHR. He was asking for secret files.

I assured him that there were no secret files.

He left. The meeting I would say was fairly amiable. He called me the next morning before 9 o'clock and said he wanted to see me.

He came into my office and sat down and he was agitated. He wanted to know again where the secret files were.

This time I got a little agitated myself. I had told him there were none. I told him that the only secret files that I know that the Bureau had were the ones that Bill Sullivan had given to Mardian about the White House wiretaps.

He indicated no interest whatsoever in those files. He was not after that.

Judging from his conversation and his comments, not specifically what he said, I thought he was looking for secret files that would embarrass the Nixon administration.

Mr. MOFFETT. That's what you thought. Your impression was that Mr. Gray was looking for secret files that would embarrass the administration?

Mr. MOHR. Yes.

Mr. MOFFETT. What led to that conclusion?

Mr. MOHR. Nothing he said specifically, but his overall comments and his own attitude. We got to the point where I told him in no uncertain terms that there were no secret files. I will not cuss here, but I think I did cuss at him a little bit. I think the secretaries even heard me out there talking to him.

Let me finish.

At that point he sat down in his chair and he said, "Look Mr. Mohr, I am a hardheaded Irishman and nobody pushes me around." I looked him right in the eye and said, "Look Mr. Gray, I am a hardheaded Dutchman and nobody pushes me around."

With that, he left.

Mr. MOFFETT. That was it?

Mr. MOHR. That afternoon he was made Acting Director of the FBI.

Mr. MOFFETT. Is it your testimony that you and Mr. Gray had no discussion about the definition of secret files? In this discussion that you did have about whether or not there were secret files, are you saying that during that discussion you didn't say, "What in the world are you talking about?" There was no discussion about the definition, what secret meant in this case?

Mr. MOHR. He never specifically said and I never specifically asked him what he meant by secret files, except that a secret file is one marked "Secret".

Mr. MOFFETT. Did you go over with Mr. Gray, based on your experience and his lack of experience about files, supposedly, the different categories of files? Did you explain to him, "Here's what we have."

Mr. MOHR. I don't know why you assume he had no knowledge of the files. He was the Assistant Attorney General in charge of the Civil Division for a number of years and he had access to Bureau materials.

Mr. MOFFETT. Maybe not as great as your experience.

Mr. MOHR. Yes; that's correct.

Mr. MOFFETT. Did you go over with him the various categories of files? For example, O. & C.

Mr. MOHR. He didn't ask me.

Mr. MOFFETT. You didn't volunteer it either.

Mr. MOHR. No; because I was of the definite impression what he was after was secret files that would be embarrassing to the Nixon administration.

The fact that he came back the second day alerted me to something. Somebody, I thought, had put him on my back. Why would he come back the second day?

Mr. MOFFETT. Your feeling was that somebody at the White House, let us say—

Mr. MOHR. I don't know.

Mr. MOFFETT. Somebody put Mr. Gray on your back to try to find out information that, in your opinion at least, related to embarrassing things to the Nixon administration?

Mr. MOHR. That's what I am saying.

Mr. MOFFETT. I'm glad we got that cleared up.

As you may have heard earlier before you came forward, it was mentioned that Mr. Gray had handwritten a note to this committee.

Mr. MOHR. Are we being deprived of water for some reason. May we have a little water?

Mr. MOFFETT. You may recall hearing my mention of a letter that Mr. Gray sent to this committee on November 27, that is a letter of November 27 last. It was handwritten.

He furnishes us in this letter with notes from Dave Kinley relating to a meeting that was held, according to Mr. Kinley, with the entire personal staff on Tuesday a.m. This includes all men and women who are engaged in the Office of the Director. Did that meeting take place do you know?

Mr. MOHR. I have no knowledge of that.

Mr. MOFFETT. You never attended any meeting after the Director's death where the staff was present with Mr. Gray or any of Mr. Gray's assistants?

Mr. MOHR. Yes, indeed.

Mr. MOFFETT. Relating, at least in part, to the question of the files?

Mr. MOHR. Never in relation to files; no.

Mr. MOFFETT. Later on in his communication to us Mr. Gray furnishes us with some notes from May 12, 1972, according to him, he says, "Today I drove to New York City to visit the New York field office."

One of the things that he says here is this:

If I do not get a chance to talk to Mr. Felt, please tell him that I do not wish to react in any way to Mr. Anderson's current columns other than to dig into our files to get the comparative facts in the most minute detail so that when necessary to do so I may with clarity and conviction and without fear of contradiction respond if contacted. Tom Bishop or Jack Hushen are to reply in 2 weeks; no comment. If pressed very hard they may say that the matter of files and communications are under continual study by Mr. Gray as they have been since he was appointed.

I understand that Mr. McDermott is going to testify. We will get some answers from him hopefully.

Does any of this ring a bell for you?

Mr. MOHR. What is the date of that?

Mr. MOFFETT. He claims it's May 12, 1972. Those are the dates of his notes.

Mr. MOHR. That was the day Miss Gandy moved out of the office, I believe.

That does not ring a bell with me.

Mr. MOFFETT. How about you, Mr. Felt?

Mr. FELT. No.

Mr. MOFFETT. He continues:

In point of fact the executive conference agenda on Thursday, May 11, 1972, included files and communications and this matter is the subject of a study paper now in preparation. If either Jack or Tom have to go beyond "No comment," and I do not think they will, they can build an additional statement along the above lines.

Does any of that ring a bell?

Mr. FELT. The only way that rings a bell with me is this way. Gray called a conference at Quantico of all assistant directors within a week or so after he took over. Each division was instructed to prepare a detailed summary and project plans of their particular operation.

I presume he was referring to the study paper of the Files and Communications Division and what their plans were.

Mr. MOFFETT. Do you know the Anderson column he referred to?

Mr. FELT. No.

Mr. MOFFETT. Let me switch back for a moment to this.

Do you find it surprising, based on your experience in government, that Mr. Kleindienst would not put an order such as the one he says he made to secure the files in writing?

Mr. MOHR. No.

Mr. MOFFETT. I do. My experience is not comparable to yours. I worked at HEW.

Mr. MOHR. I can understand it at HEW, but at FBI when you are told to do something, you do it.

Ms. ABZUG. I'm sorry but we will have to recess while we go vote.
[Recess taken.]

Ms. ABZUG. The hearing will be called back to order.

Mr. Mohr, I understand that you are the nominated executor of the estate of Mr. Tolson.

Mr. MOHR. Madam Chairman, let me mention one thing I learned during the recess.

It had to do with the file of Richard Nixon and the question was raised as to how I happened to have it and what precipitated it. Somebody reminded me what occurred.

Mr. Nixon had appeared as the principal speaker at a national graduation ceremony at the departmental auditorium.

Somewhere during the ceremony Mr. Hoover presented him with an FBI agent's badge. It was mounted in a nice way. When Mr. Nixon got it, he said something to Mr. Hoover about it being a little late to give him a badge.

The New York Times picked it up and there was an article there.

When Mr. Hoover and Mr. Tolson came back from that particular session, they asked me to check the file.

That's how that happened.

It was nothing insidious, really.

Ms. ABZUG. I didn't say that. You are suggesting it right now.

Mr. MOHR. I used to work in Brooklyn and I can tell these Brooklynites.

Ms. ABZUG. I was born in the Bronx.

The trouble with you people is that all New Yorkers look alike and come from the same place, Brooklyn.

Some of us come from other places.

Mr. MOHR. I am the nominated executor. The case is in dispute, so I'm not the executor.

Ms. ABZUG. I see.

It was reported in the New York Times in June of 1975 as follows: "Several past and present FBI officials said that they understood that Mr. Tolson, J. P. Mohr, another Hoover associate, and various Bureau secretaries, including Helen W. Gandy, Mr. Hoover's personal assistant for many years, spent weeks in the house going through the materials that had been removed."

You stated in a deposition in the Tolson will contest: "That statement is absolutely false." Did you mean that Miss Gandy did not spend weeks going through files?

Mr. MOHR. No; the entire statement is false.

Ms. ABZUG. Why?

Mr. MOHR. That part about Mr. Tolson and about myself having gone through the files is absolutely false.

I didn't go through any files. Mr. Tolson, to my knowledge, never went through any files. Miss Gandy did go through the personal correspondence files that were removed to Mr. Hoover's residence.

Ms. ABZUG. You never examined any documents in Mr. Hoover's house except the ones you have testified to; is that correct?

Mr. MOHR. Correct.

Ms. ABZUG. It is strange but I take your testimony for what it is.

Mr. MOHR. What was that remark?

Ms. ABZUG. I say it's strange, but I take your testimony for what it is.

Mr. MOHR. May I ask what is strange?

Ms. ABZUG. I still find it very difficult to believe some of the testimony about these files. The man dies; he had maintained a lot of files in his own suite. They obviously were files which were not solely of a personal nature. At least there is evidence that some of the files which were marked personal were indeed very extremely political. These files were all treated as if they were the personal effects of Mr. Hoover when there is indication that they were not.

It seems to me from the point of proper government operation that the person in authority should have gone through those files.

It seems to me that the administrative officer, yourself, should have concerned himself with those files. I am not the only one who feels that way.

Mr. MOHR. Who else feels that way?

Ms. ABZUG. I think all of us here today find it very difficult to understand that these files, which may have contained important information for the governmental processes, were not looked through or at least overseen by a person who was in charge of the files.

Mr. MOHR. I think Mr. Gray had that responsibility.

Ms. ABZUG. You think he had the responsibility?

Mr. MOHR. Absolutely.

Ms. ABZUG. He became the Acting Chief of the agency but you were still the administrative officer in charge of the files.

Mr. MOHR. That's right, and I testified that I had no supervision and no administrative responsibilities for anything in Mr. Hoover's personal office. I said, alive or dead.

I said that Mr. Gray when he took over didn't ask me to come up there and help him do anything. He didn't ask my opinion about anything up there. I would just as soon not say what I was going to say.

Ms. ABZUG. Why not say it?

Mr. MOHR. That's my opinion again.

Ms. ABZUG. I told you you have a right to your opinion.

Mr. FELT, did you offer Miss Gandy a room on the sixth floor of the Department of Justice to continue to cull the files after Mr. Hoover's death?

Mr. FELT. I have no recollection of that, but it is entirely possible that I did.

Ms. ABZUG. What do you mean it's entirely possible?

Mr. FELT. I think if she needed more time or space I would have helped her to get it, but I don't have any recollection of it.

Ms. ABZUG. What do you have a recollection of? As you know, Miss Gandy was going through the files for a certain period of time. When she left, the files were sent over to the house of Mr. Hoover. So, did you, for example, ever accompany Mr. Gray when he visited the FBI?

Mr. FELT. Do you mean when he visited the Director's office?

Ms. ABZUG. Yes.

Mr. FELT. Yes, I did.

Ms. ABZUG. What happened?

Mr. FELT. A couple of times. On the first occasion he wanted to see the space. So, I took him through and we made a survey. I showed him all the rooms. I introduced him to Miss Gandy and Ms. Metcalf. He wanted more room and more space. I showed him where we could get it and we got it for him.

The other occasion——

Ms. ABZUG. What did he want the room and space for?

Mr. FELT. He wanted a larger staff than Mr. Hoover had so he needed more office space.

Ms. ABZUG. What was the other occasion?

Mr. FELT. The other occasion was when I escorted him into the office when we had our first executive's conference meeting—which I think was on about the third day or so.

Ms. ABZUG. You never discussed these files with him?

Mr. FELT. Oh yes, I discussed the files with him. As I indicated earlier I told him that I had them. I told him that I would like for him to review them so that he could see what they were, but he never did.

Ms. ABZUG. Did Mr. Gray ever visit the FBI before that time when you were not present?

Mr. FELT. It is possible, of course. I don't know. I think that he probably came to see me on most occasions when he came to the FBI during this interim period.

Ms. ABZUG. Who succeeded you in your position?

Mr. FELT. You mean after my retirement?

Ms. ABZUG. Yes.

Mr. FELT. Mr. N. P. Callahan.

Ms. ABZUG. Is it your testimony that you believe the files you collected from among the other Assistant Directors, and which you inventoried, are still there?

Mr. FELT. I would assume they are still there, yes.

Ms. ABZUG. Why, if they did not belong in the hands of the individual assistants, were they not just simply returned to the regular Bureau's files?

Mr. FELT. Because Gray had indicated his concern. He talked to me about the secret files. I told him there were no secret files. I wanted him to see for himself.

Ms. ABZUG. You said there were certain files which the assistants had which Mr. Hoover suggested you collect. You collected those files. You said that as far as you know they are still there.

Mr. FELT. Exactly.

Ms. ABZUG. I say to you, why were those files not returned to the regular Bureau files inasmuch as those files should not have been in the hands of these people in any case?

Mr. FELT. I didn't say they should not have been in the hands of those Assistant Directors. You've misquoted me before on that.

Ms. ABZUG. If I did it is not intentional so you can correct anything you want.

Mr. FELT. Let me correct that now.

What I said was that Mr. Hoover asked me to conduct a survey to see if any Assistant Directors had any files in their possession, not that were improperly there. When he saw the memorandum which I prepared, he decided that I personally should retain all those files, not that they should go to the regular files. I don't think they were improperly maintained by me. I think they were properly maintained by me.

Ms. ABZUG. This is an interesting question.

I think we should determine whether or not, among the systems of records the FBI has filed, this system is listed as a system; that is, the system kept by the Deputy Assistant.

Mr. FELT. I don't think you could find a department of government where various individuals, that is high level people, do not have some records of their own in their own office. I maintained such files in my office.

Ms. ABZUG. There are a lot of things that have happened for a lot of years which have been done improperly.

That does not mean that they have to continue to be done improperly.

Mr. FELT. I don't think they've been done improperly. I disagree with that.

Ms. ABZUG. From what I've already seen, although I'm not trying to judge the whole picture, if certain files were listed as personal files, and were very political, and then I listed nine items——

Mr. FELT. You don't know what was in those files. You are assuming they were political. I don't think they were.

Ms. ABZUG. This is not an assumption.

Mr. FELT. You just played a tape of Mr. Sullivan.

Ms. ABZUG. That speaks for itself.

Mr. FELT. I don't think it does.

Ms. ABZUG. The list I read to you is the list actually taken from the files of the FBI.

Mr. FELT. I think you are talking about the list that I told you before, that is you are talking about perhaps a file drawer full of files which I got from one of the Assistant Directors. That's what you are talking about. You're not talking about the files that came from Mr. Hoover's office.

Ms. ABZUG. I've had a lot of interesting experiences since I chaired this committee. I heard the head of an agency come in here and say that he occasionally opened up a letter here and there. That "occasionally" turned out to be millions of letters.

I don't want to argue with you whether that file drawer was the practice or whether it was just an occasional event.

The fact is that if it were an occasional event, it was wrong. I suspect it was more than occasional.

I suspect this only because it is clear from what has been stated and from what we have discovered so far that, in eight instances there were official matters contained in files marked "personal." Do you agree with that?

Mr. FELT. No, I don't. You are not stating the facts correctly.

You talk about eight cases. The files you are talking about were one file drawer of cabinets that I got from one of the Assistant Directors.

These are the files you are talking about. Proper or improper they did not come from Mr. Hoover's office.

Ms. ABZUG. I don't know whether we are both talking about the same thing or not. We may be.

What I am talking about are files which were originally marked "personal" files.

Mr. FELT. From Mr. Hoover's office.

Ms. ABZUG. Then they were transferred to official files at the direction of Mr. Hoover.

Mr. FELT. To me.

Ms. ABZUG. I don't know to whom.

Mr. FELT. This has been testified to this morning. They came to me.

Ms. ABZUG. We may not be talking about the same thing.

You are talking about files you picked up from Assistant Directors. I'm talking about a file, that is the list that I read off earlier today which was a list of file titles that were found in the official and confidential files which was previously filed in former FBI Director Hoover's personal files.

Mr. FELT. Of course I have not seen your list.

Ms. ABZUG. I read the list; it includes an agreement between the FBI and the Secret Service concerning Presidential protection; testimony of Elizabeth Bentley; Fred B. Black, Jr.; the bombing at the U.S. Capitol; Bureau recording instruments; et cetera.

Those were very specific things which we know, which were originally listed in the personal files, and subsequently were transferred into the official files.

That is wrong. It can't be right.

Mr. FELT. What's wrong about it?

Ms. ABZUG. Because there is nothing personal about that. Mr. Hoover should not have it in his personal files. It's not the deed to his property; it's not his stock certificates; it's not his investment in oil wells; it's not his love letters or his communications. That's personal.

Communications with friends are personal.

Mr. FELT. It was corrected; that is the important thing.

Ms. ABZUG. But you are arguing with me that it was correct in the first place.

If you think that, it's fortunate that you are no longer in charge of it. This is what we have to change. We have to change if we make mistakes.

I appreciate your coming. It has been important to talk and communicate.

We will have to continue this communication some more.

Mr. FELT. You didn't say it was pleasurable.

Ms. ABZUG. I said it was important. It was not unpleasant.

Mr. FELT. No, really not.

Mr. MOHR. Are we dismissed?

Ms. ABZUG. For the moment, yes.

I call now Mr. McDermott.

The witness was duly sworn.

STATEMENT OF JOHN J. McDERMOTT, ASSISTANT DIRECTOR, FEDERAL BUREAU OF INVESTIGATION; ACCOMPANIED BY HUNTER HELGESON, DEPUTY ASSISTANT DIRECTOR; AND JAMES W. AWE, TECHNICAL SPECIALIST

Mr. McDERMOTT. Accompanying me is Deputy Assistant Director Hunter Helgeson and Mr. James Awe who is one of my specialists in the event you look for technical details that I don't personally possess.

[The three witnesses were sworn.]

Ms. ABZUG. How long is your statement?

Unfortunately I have to go soon. I have another meeting.

Mr. McDERMOTT. The statement would take about 20 minutes to read in its entirety. If I limit it to those matters in which the committee has shown a particular interest, it can be made briefer I would like to have the entire statement submitted for the record.

Ms. ABZUG. Yes, you may have it submitted for the record. Would you try to give us a summary of your statement. Without objection, the full statement of the Assistant Director John J. McDermott will be included in the record.

Ms. ABZUG. We would like for you to summarize.

Mr. McDERMOTT. Thank you.

The committee has expressed a particular interest in the official and confidential files so I will start with that.

With regard to former Director Hoover's official and confidential files, these files date back to the 1920's and consist of a large variety of items some of which Director Hoover apparently did not desire to be included in the Bureau's general files and others which were merely copies of documents maintained in the Bureau's general file holdings. Perhaps so that he might have ready reference to them.

In 1941, Mr. Hoover reorganized these confidential files in his office suite and directed that certain material be transferred to the administrative files or to the National Defense Division as the Intelligence Division was then known.

There is attached as exhibit C of this statement a copy of the memorandum dated October 1, 1941, prepared by Mr. Hoover wherein he expressed his desire concerning the manner in and purpose for which—

Ms. ABZUG. Excuse me, Mr. McDermott. I'm going to ask Mr. Maguire to take the Chair. I unfortunately have to attend another meeting.

Mr. MAGUIRE. Mr. McDermott, you may proceed.

Mr. McDERMOTT. There is attached as exhibit C to this statement, a copy of a memorandum dated October 1, 1941, prepared by Mr. Hoover wherein he expressed his desires concerning the manner in, and purpose for which he desired the official and confidential files to be maintained.

The matters retained in Mr. Hoover's office suite included but were not restricted to confidential items, some of a personal nature, and again others which were duplicated in the Bureau's general file holdings.

The 164 file folders located in Mr. Hoover's office suite following his death consisted of policy matters, administrative matters, reference material, internal personnel matters, sensitive source information, information concerning certain prominent persons, and other information apparently of particular interest to Mr. Hoover.

I will not take more of the committee's time with a more detailed description of these files but refer the committee to the testimony of the Honorable Edward H. Levi, Attorney General of the United States, before the House Judiciary Committee's Subcommittee on Civil Rights and Constitutional Rights on February 27, 1975.

Subsequently, these official and confidential files were transferred to the special file room of the Files and Communications Division at FBI Headquarters where they were integrated into our general file holdings accessible through our general index system.

The special file room contains records of extraordinary sensitivity, access to which is extremely limited.

The committee has also expressed an interest in the "Do not file" label on certain documents and I would like, therefore, to discuss this practice.

In a memorandum prepared for distribution to Bureau Headquarters officials and supervisors dated April 11, 1940, former Director Hoover instructed that, "In the future, memoranda written merely for informative purposes, which need not be retained for permanent filing, should be prepared without abstracts and without carbon copies on a blue interoffice memorandum form . . ." Please refer to exhibit D for that instruction.

In a memorandum over his signature dated November 15, 1941, Mr. Hoover took cognizance of the rapid expansion of the Bureau and the increased necessity to generate memoranda for informative and administrative purposes only, which memoranda frequently were of no permanent value.

In instructing officials to carefully distinguish between those documents which should become part of the Bureau's permanent file holdings and those which serve only a temporary purpose, Mr. Hoover stated, "The only possible standard is: 'Will the information set forth

in the memorandum be of permanent value to the Bureau warranting the handling of it in the files?" In this respect see exhibit E.

Instructions regarding the preparation of memoranda at FBI Headquarters were incorporated into a manual entitled "General Instructions for Bureau Supervisors" on March 1, 1942. These instructions further develop the color coding of Bureau Headquarters memoranda and stated that memoranda intended to be made a permanent part of the Bureau files should be prepared on white paper; memoranda prepared solely for the benefit of the Director, which eventually would be returned to the dictator for destruction or for retention in the Director's office, should be prepared on blue paper; and memoranda prepared for temporary usage for administrative purposes such as ordering supplies should be placed on pink paper. Please see exhibit F.

A memorandum dated January 16, 1943, from former Associate Director Clyde Tolson, in his capacity as Chairman of the Executives' Conference, to the Director reflects that consideration was given to discontinuing the use of the pink and blue memoranda. However, the Conference unanimously recommended to the Director that while the pink form should be discontinued that ". . . all memoranda prepared in every section which need not go to file be prepared on blue memorandum forms . . ." Please see exhibit G.

In a memorandum to all investigative employees dated March 9, 1943, Mr. Hoover wrote: "In order to eliminate as much clerical and paperwork as possible the following procedures are being adopted which will obviate the necessity of filing certain communications at the Seat of Government . . ."

There then followed in this memorandum specific instructions with regard to the manner in which certain types of communications of only temporary value should be prepared.

The concluding paragraph of this memorandum to field offices stated, "In order that the practice may be uniform throughout the service, a supply of forms will be furnished to the file bearing the notation at the bottom of the page 'Informative Data—Not to be Filed.' " Please see exhibit H.

In a separate memorandum, also dated March 9, 1943, to FBI Headquarters officials and supervisors captioned "Cutting Down paperwork," Mr. Hoover stated that ". . . certain paperwork can be held to a minimum and then, after it serves its purpose, it need not be sent to Files . . ."

There then followed specific instructions with regard to the practice of preparing memoranda of permanent value on white paper and memoranda of only temporary value on blue paper, the latter not being intended for filing. That memorandum concluded with an exhortation from Mr. Hoover to his Headquarters supervisors to be on the alert for other types of communications not having permanent value which, therefore, should not be made part of our permanent file holdings. Please see exhibit I.

By memorandum of November 9, 1944, captioned "Pink Memorandum," Mr. Hoover instructed that in the future memoranda which were not to be filed but which were intended for informative purposes only should thereafter be prepared on pink paper. Please see exhibit J.

This change was occasioned by policy promulgated in the executive branch requiring the utilization of blue paper for interdepartmental correspondence.

Until immediately prior to February 20, 1950, instructions concerning the use of pink memorandums for information of only temporary value were contained in the Manual for Bureau Officials and Supervisors. On that date, however, instructions were issued and included in that manual that all memorandums in the future should be prepared on white paper. Please see exhibit K.

In our current review of old instructions, we were unable to find any instructions more recent than these dealing with the practice of using blue or pink paper for memorandums the contents of which, in the judgment of the author, were of only temporary value and, therefore, not intended for retention in our permanent file holdings.

I should like to point out that the pink and blue paper used were officially authorized forms upon which were printed :

This Memorandum is for Administrative Purposes—(To be Destroyed After Action is Taken and Not Sent to Files or Information Memorandum—Not to be Sent to Files Section.

While there is not currently promulgated any formal instructions with regard to the labeling of memorandums "Do not file," the practice of preparing memorandums not intended for permanent retention continues at Bureau Headquarters as it does in business and government offices universally including, I would assume, in the offices of the members of this committee.

This is clearly a good paper management device intended to limit or control, insofar as possible, the ever-increasing volume of records.

I hope I have established to the satisfaction of the committee from the foregoing discourse that there was absolutely nothing sinister or nefarious either in the original concept or in the subsequent practice of the preparation of memorandums not intended for filing.

That, gentlemen, is a pretty well boiled down version of my statement.

Mr. MAGUIRE. Thank you very much, Mr. McDermott.

Let's go back for a moment to the question that we were discussing this morning with Miss Gandy.

Can you tell us whether any kind of investigation was conducted by the FBI or the Justice Department as to the status of Mr. Hoover's files? That is, at the time of his death and what happened after that.

Mr. McDERMOTT. Yes.

There was an official investigation conducted. I believe, and I stand to be corrected by one of my colleagues here, but I believe it was instituted in approximately January 1975, and was renewed again in June of 1975.

The Attorney General expressed an interest, perhaps as a result of some news media comments, as to the disposition of files or documents originally maintained in Mr. Hoover's office, some of which, as has been testified here today, were of a personal nature which were removed to his residence upon his passing.

Mr. MAGUIRE. Who conducted that investigation?

Mr. McDERMOTT. The investigation was conducted by members of our inspection staff, the Inspection Division at FBI Headquarters.

The gentleman who headed up that investigation is sitting to my right, Deputy Assistance Director Helgeson.

Mr. MAGUIRE. The Justice Department wasn't involved in it in any way?

Mr. McDERMOTT. They requested that the June 1975, investigation be instituted and the results of that investigation or inquiry were, of course, made available to the Department.

Mr. MAGUIRE. They did not independently take part in the investigation?

Mr. McDERMOTT. Not to my knowledge.

Mr. MAGUIRE. Mr. Helgeson, is that correct?

Mr. HELGESON. That is correct.

Mr. MAGUIRE. On page 10 of your statement you talk about the disposition of records. Given this procedure, is it possible for the secretary to the Director, solely on her own, to destroy or remove 30 or more file drawers of records which had been housed in an FBI office?

Mr. McDERMOTT. The various regulations to which I allude in my statement and expand upon, if you desire, refer to documents which had been made matters of record.

It is my understanding from Miss Gandy's earlier testimony today, that she was confining her remarks not to documents which had been made a matter of official record but rather documents of a personal nature which, following the wishes of Director Hoover and instructions of Mr. Tolson, she caused to be removed to Mr. Hoover's residence.

I cannot speak of personal knowledge. I was not at headquarters at that time.

Mr. MAGUIRE. You have never seen any of those files yourself personally?

Mr. McDERMOTT. I have not.

Mr. MAGUIRE. Was an inventory made of the contents of the files contained in Mr. Hoover's suite at the time of his death?

Mr. McDERMOTT. There was an inventory made of certain official and confidential files which were later removed to Mr. Felt's office.

I don't know of any inventory that was ever made of the personal documents or papers of Mr. Hoover.

I have no knowledge of those papers.

Mr. MAGUIRE. Is it surprising to you that when Mr. Hoover and Miss Gandy went through the personal files in the 6 or so months prior to Mr. Hoover's death, and managed to get through only A, B, and C, that they found a number of files in the B section which were then switched over to official and confidential files because they contained matters that were not personal?

Is it surprising to you that that occurred at the beginning of the alphabet but then later, when Miss Gandy went through the remainder of the files, somehow there were no files that qualified as having any official material in them?

When one is thinking about sets of files and internal consistency of sets of files, is that not surprising to you?

Mr. McDERMOTT. Not especially. My response must be speculative in nature not having had any exposure to this.

But, I can well conceive of the possibility that at one point in time Mr. Hoover might have regarded a particular document as being

strictly personal in nature and then upon review at a subsequent time, perhaps years later, would have regarded it in a different light. Then he would have considered it worthy of permanent retention.

Mr. MAGUIRE. Is it possible that there were any of these blue slips, which you have described, included in those personal files?

Mr. McDERMOTT. Anything is possible.

I have no personal knowledge of the personal files as distinguished from the official and confidential files.

Mr. MAGUIRE. Physically speaking were their personal files mixed up with the official and confidential files in this suite?

Mr. McDERMOTT. I don't know how these files were maintained in Miss Gandy's office.

Mr. MAGUIRE. What did the investigation reveal as to that matter? May I defer to Mr. Helgeson here?

Mr. HELGESON. They were maintained separately.

Mr. MAGUIRE. They were separate drawers or separate filing cabinets?

Mr. HELGESON. At least separate drawers.

Mr. MAGUIRE. Miss Gandy, I thought, indicated that they were maintained together in the same drawer.

Mr. HELGESON. She may have been speaking of the indices or index cards.

Mr. MAGUIRE. I may not be speaking of that. I understood her testimony to be that the files themselves were inter-mixed.

Mr. HELGESON. I did not understand it that way.

Mr. MAGUIRE. Were FBI trucks used to remove files from the FBI building in May of 1972, Mr. McDermott?

Mr. McDERMOTT. The inquiry by Mr. Helgeson's staff established that there were no FBI files removed from the Justice building. There were some personal papers that were the property of Mr. Hoover and, therefore, became the property of his estate which were removed by a truck to his residence.

Mr. MAGUIRE. Were they removed by FBI trucks?

Mr. McDERMOTT. I believe they were.

Mr. MAGUIRE. If so, is there a record or a log of those trips that were made by those trucks?

Mr. HELGESON. No, sir.

Mr. MAGUIRE. Don't trucks generally have to be logged in and out?

Mr. HELGESON. I think it's a matter of the retention of the record. I believe the record originally was made. However, I think they were destroyed in the normal course of business.

Mr. McDERMOTT. May I just expand on that to state that it is the practice in the FBI, as it is in most Government agencies, to retain records strictly of an administrative nature for so long as they serve a specific purpose and thereafter to destroy them.

It is our practice to maintain auto registries at our headquarters and our various field offices for a limited period of time.

Mr. MAGUIRE. What period of time?

Mr. McDERMOTT. I believe in the field offices it is for 1 year. In no event would it be longer than 3 years.

Mr. MAGUIRE. This committee requested the reports on the investigation. Do you have those reports?

Mr. McDERMOTT. No. I have not brought them. The committee requests have been referred to the Department of Justice. As you know, the Department has been in touch with this committee with regard to a series of requests.

Mr. MAGUIRE. So you are not prepared to hand over the reports to us at this time or make a statement as to whether or not you are prepared to do so?

Mr. McDERMOTT. I think there is a five-page summary of the investigative results of that inquiry directed by Mr. Helgeson which have been made available to the Senate select committee staff.

I believe that the request now from this committee is under consideration in the Department of Justice.

Mr. MAGUIRE. Are you satisfied as a result of the investigation that was conducted that all of the files, which were taken out of the FBI building to Mr. Hoover's home and were destroyed, were in fact all of a personal nature as opposed to dealing with FBI business?

Mr. McDERMOTT. As I mentioned to you before, Mr. Maguire, I have no personal knowledge of this but I must emphasize that I have absolutely no reason to disbelieve that that is the case.

Mr. MAGUIRE. It is now claimed with regard to the Oswald matter in the Kennedy assassination, that the famous threatening letter that Oswald delivered to the Dallas FBI office a few days prior to the Kennedy assassination was never sent to Washington.

Is that possible—that a communication of such importance would not be transmitted?

Mr. McDERMOTT. An extremely thorough investigation of the circumstances surrounding this matter was conducted by our Inspection Division. There was absolutely no information developed at any time that this note was ever brought to the attention of any official at FBI headquarters. There is no indication that the note itself ever became a matter of record and that it was filed as a document in a file even in the Dallas office.

We do not dispute that there was such a note or that it was delivered by Oswald.

Mr. MAGUIRE. Or that it was destroyed?

Mr. McDERMOTT. Yes, or that it was destroyed.

Mr. MAGUIRE. CBS had a special last week on the matter of the assassination.

In the course of that second hour there was referred to by one of the persons who was interviewed, a former FBI officer, that a memorandum had been sent from the Director to Field offices about 5 days before the assassination warning that the assassination attempt would be made.

I take it that copies of that communication are not available and have not been found in the files.

Mr. McDERMOTT. Let me allude to that very briefly to put it in perspective.

It was not a memorandum. The document alleged to have been sent was a teletype. It was supposedly sent from FBI headquarters to all FBI field offices. It purported to alert field offices to the reported possibility or plan of somebody to assassinate President Kennedy.

An exhaustive inquiry was made by the FBI in 1968 during the course of which every single field office in the FBI was canvassed.

I would hope the committee would agree that there is no possible way that you can get personnel in all of our field offices to agree to the destruction of a copy of what would have been a significant document.

In all instances, the inquiries of all of our field offices came back negatively. No one had ever heard of the document.

I would like to further state that the individual who was a night clerical employee in the New Orleans office, who claims to have seen such a document, that is a teletype, was interviewed in Jacksonville, Fla., around that same time. He specifically denied to the special agent in charge of the Jacksonville office that he had seen such a document.

We have a record of that interview.

Mr. MAGUIRE. You see, the thing that is essentially disturbing about all of this particularly in regard to blue-slip technique or administrative device which you have described in your testimony, is that we have a dual system of recordkeeping here.

Mr. McDERMOTT. No, sir. May I correct you, sir?

It's not a dual system of recordkeeping because when a document is labeled "Do not file" it was never intended to become a part of any record system.

Mr. MAGUIRE. Your contention is that this system was established strictly for purposes of saving paper, is that correct?

Mr. McDERMOTT. Yes.

Very frequently a memorandum would have been prepared for informative purposes.

Mr. MAGUIRE. What is an informative purpose?

Mr. McDERMOTT. Somebody might ask a question, "When did we start the practice of doing A, B, and C?" The job would be given to an individual to research it. The research would be conducted. The memo would float back up and could be labeled "Do not file" and indicate that this practice was started in the year 1942 and was modified in 1946 and this is the current status.

The content of the memorandum is not new material. It merely is a synthesis of that material already in the file.

Therefore, no useful purpose would be served by having this particular memorandum filed.

Mr. MAGUIRE. Is it conceivable to you, Mr. McDermott, that the blue slips system, in which slips were marked not to be filed, might have been used in certain circumstances to communicate information which was not routine but rather highly sensitive and which someone might wish not to be filed?

Mr. McDERMOTT. Precisely.

Where the document which in the opinion of the author either should not or need not become part of the permanent file, then that would be the case. For whatever motive, the author decides when he dictates the memorandum that the document is not intended for permanent retention.

Mr. MAGUIRE. So, it is not just a case of having material be limited to administrative details or restatements of something for informative purposes.

You admit and indeed affirm that the blue-slip communication could in fact be used to communicate sensitive information which someone might not wish ever to appear in the files.

Mr. McDERMOTT. It obviously could be used to record temporarily sensitive information but not just sensitive information. It could be routine, redundant, and repetitious information.

Mr. MAGUIRE. I'm not really concerned about the repetitious information. I am concerned about the sensitive information, the famous black bag memo which was labeled "Do not file." That's presumably what we are talking about as far as sensitive material is concerned. That was not routine.

Mr. McDERMOTT. The author, whoever he was, obviously intended that it not be made a part of our permanent file holdings so he so labeled the document.

Mr. MAGUIRE. I recently reviewed some statements that Senator Schweiker made in September when he was looking into this same procedure. He essentially makes the point that this is a beautiful system for covering things up, is it not?

Mr. McDERMOTT. If the intention were to cover things up, it is highly questionable that the memorandum would have been dictated in the first place.

Mr. MAGUIRE. I'm not so sure. If you are dealing with something that requires some kind of record and you don't want it to appear in the regular files of the agency, then it would seem to me that things have to be communicated between the Director and whoever he may be working on a specific project—

Mr. McDERMOTT. I don't dispute the fact that the system is conducive to that use. I am stating what the practice has been, the genesis of it, and any practice, of course, is subject to misuse. But, I would ask you not to confuse the propriety of the practice with the subject matter treated in the memorandum.

I think they are two entirely separate considerations.

Mr. MAGUIRE. Maybe if we had some better answers as to what was contained in the so-called personal files and why we have a situation in which only the B's seem to deal with official matters while everything else didn't, we wouldn't be so suspicious.

I'm afraid the record of the testimony today is such that it causes serious questions about it; that is, both the credibility of the witnesses here and the behavior of the FBI.

Within the last year, how many times have you caused the files of the FBI to be checked to determine whether certain information was contained in the files for purposes of filing an affidavit in a court case? For example, wiretap information?

Mr. McDERMOTT. I personally have not had occasion to do that.

Mr. MAGUIRE. Do you know of any other instances in which that has been done?

Mr. McDERMOTT. No. That is not to dismiss the possibility that it has been done.

What is the specific purpose that you had for the search, Congressman?

Mr. MAGUIRE. For purpose of filing an affidavit in a pending court case.

Mr. McDERMOTT. We are called upon occasionally, as custodians of the FBI records, to make certifications for submissions to courts as to the contents or lack of references in the Bureau file to a certain subject matter.

This is not done on my level. It is usually done at a different level.

Mr. MAGUIRE. Perhaps if you are uncertain as to the exact answer to this question, provided that you would be willing to furnish the information at a later date, we will hold the record open at this point.

Mr. McDERMOTT. I would be delighted to accommodate you except we don't keep statistics readily retrievable on the number of times we prepare affidavits, you see.

It serves no internal purpose for us, so we don't keep such figures.

I do acknowledge that such affidavits are made as necessary.

Mr. MAGUIRE. Mr. Steiger.

Mr. STEIGER. Mr. McDermott, as I sit here listening to this I have the awful feeling that you and the other witnesses must believe that everybody in Congress, and possibly in the country, have the same suspicions and concerns about the FBI that have been expressed by the chairwoman and by Mr. Maguire.

I would simply advise you that that is not the case.

The FBI is not seen as a sinister body by anybody but the few who have found what I consider to be political profit in probing that. I want you to know that because I think the overwhelming majority of the Congress and the Nation recognize the FBI for what it is; that is, the finest law enforcement operation in the world.

It's made up of human beings who conceivably have made human errors. But, in any kind of totality the FBI is accepted as a great operation.

So, all of this obsession with minutiae is recognized by everybody else except those who have been asking the questions.

I want you to understand that so that you don't go home believing that the media and these few people represent the American people, because they don't.

In fact, I was interested in Mr. Maguire getting his investigative work from CBS. I prefer to depend on the FBI if I were to lean on an investigative process.

Let's get the record in focus which nobody will read but you and I.

On page 5 of your statement you refer to the 6 million volumes of files and index of files and more than 58 million cards.

I am most impressed when you compute them.

Then the statement on page 14 also in which you explain that subsequent to February 27 of this year the official and confidential files, which seemed to have concerned everybody, have been transferred to the special file room and thus placed into the system.

I just learned this, so really all of the concerns of this committee are based on past operations and as far as your operation is concerned, if I read this correctly, there are no official and confidential files in the Office of the Director presently. Is that correct?

Mr. McDERMOTT. That is correct.

Mr. STEIGER. And, those official and confidential files existing at the time of Director Hoover's death have been placed in this 6 million volume system with a special designation because of their sensitive nature?

Mr. McDERMOTT. They have been segregated because of their sensitive nature and because of current congressional and executive branch concerns over past practices. But, they are fully integrated into our system by way of retrievability through our central index.

Mr. STEIGER. Are there other items in the special file room other than those which formerly were housed in Director Hoover's office under official and confidential labels?

Mr. McDERMOTT. Most certainly.

There is information concerning our technical surveillances, information concerning our sensitive sources and informants, information on certain intelligence areas which because of their sensitivity and possible damage assessments should they be compromised are deserving of special secure handling.

Mr. STEIGER. So, there has always been a sort of classified section of the file section even before, that is including the time when they were kept in the Director's office?

Mr. McDERMOTT. Yes.

Mr. STEIGER. All you've done is to integrate the confidential memos in the existing special files?

Mr. McDERMOTT. That is correct.

Mr. STEIGER. Has our staff been aware of this prior to your statement?

Mr. McDERMOTT. Yes; I believe so.

Mr. STEIGER. So really, all of these investigations, including the Senate side and the House special committee and this committee, have been aware of this fact. Is that correct?

Mr. McDERMOTT. Of their present disposition?

Mr. STEIGER. Yes.

Mr. McDERMOTT. Yes.

Mr. STEIGER. As a matter of interest, have you any idea and I hope you don't keep records of this type—how many times your people from your section have been required to appear on the Hill with regard to this matter? Let's say, since January 1 of this year?

Mr. McDERMOTT. I would not hazard a guess because it would be unfair to the committee and perhaps misleading, but I do know that there are 10 or 12 different committees which have expressed interest. In some instances this has resulted in testimony of our officials on Capitol Hill and in other cases it resulted in the necessity of conducting indepth research on certain subject matter.

Mr. STEIGER. How much time have you had to spend? Allegedly we are concerned about the privacy and the Freedom of Information Act. That is the supposition that you have been asked to come up here under.

Actually I have not seen much which has touched on that.

As a result of the Privacy Act and the Freedom of Information Act, you have developed a process, as I understand it, whereby you actually have a section whose purpose it is to see that the two acts are carried out. Is that correct?

Mr. McDERMOTT. Yes.

Mr. STEIGER. I have not had time to read your whole statement. Do you address it in your statement?

Mr. McDERMOTT. No.

Mr. STEIGER. Do you have the information here?

Mr. McDERMOTT. I have notes.

Mr. STEIGER. I think the record ought to reflect this. I think it ought to reflect how many people are involved in your structured effort to assure the compliance with the Privacy Act and the Freedom of Information Act since this is what this Committee is supposedly concerned about.

Mr. McDERMOTT. I will sum it up very briefly, if I may.

The Freedom of Information Act Unit was founded back in 1973. It then consisted of approximately six individuals.

Since the passage of the 1974 amendment, which became effective on February 19, 1975, our approved strength for this section, which now, of course, administers both the Freedom of Information and the Privacy Acts, has grown to 200.

We are now staffed by approximately 190 people.

It is interesting to note that when the Congress wrote the latest version of the Freedom of Information Act, that is incorporated the 1974 amendments, which went into effect, as I say, last February, Congress did not provide any agency with additional money or personnel to process the applications for access.

House Report 93-876 on page 9 stated. "This legislation merely revises information procedures under the Freedom of Information Act but does not create costly new administrative functions. Thus, activities required by this bill should be carried out by Federal agencies with existing staff so that significant amounts of additional funds will not be required."

I should like to point out that the cost to the Bureau prior those amendments, that is for fiscal year 1974, was \$160,000 for the entire fiscal year.

The estimated cost for the administration of the Freedom of Information Act and Privacy Act for fiscal year 1976 is \$3,427,000.

I think it is desirable and rather important that the people understand the substantial resources of the FBI personnel-wise which are being diverted from our basic mandate, which is, after all, investigation.

Mr. STEIGER. Mr. McDermott, do you have a memo there which addresses this Freedom of Information Act and its impact on the department?

Mr. McDERMOTT. No; I do not.

Mr. STEIGER. Would it be an onerous chore if you could prepare such a memo for the record?

Mr. McDERMOTT. We would be happy to. We shall do that and send it to the chairwoman.

[The material follows:]

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

December 23, 1975

Honorable Bella S. Abzug
Chairwoman
Government Information and
Individual Rights Subcommittee
Washington, D. C.

Dear Chairwoman Abzug:

In response to your request for additional information following the FBI's testimony before your Subcommittee, I am enclosing a memorandum prepared by the FBI. This response contains a copy of the John P. Mohr memorandum of May 2, 1972, which you requested in your December 15 letter to the Attorney General.

Sincerely,

A handwritten signature in cursive script, reading "Michael M. Uhlmann". The signature is written in dark ink and is positioned above the printed name.

Michael M. Uhlmann

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 23, 1975

REQUEST FOR INFORMATION BY THE
SUBCOMMITTEE ON GOVERNMENT INFORMATION
AND INDIVIDUAL RIGHTS OF THE HOUSE
COMMITTEE ON GOVERNMENT OPERATIONS

In connection with the testimony of Assistant Director John J. McDermott of the FBI before the Government Information and Individual Rights Subcommittee of the House Committee on Government Operations on December 1, 1975, the Committee requested a written response to several questions. Accordingly, the following data is being provided:

The Committee expressed an interest in the Kissinger wiretaps and wanted to know specifically if this information is part of the Bureau's general records system and accessible through the central index. It has been determined that this information is part of the general record system and it is accessible through the central index. However, the data is kept in an area separate from the central files with very limited access.

The Committee wanted to know if the FBI has in its files a copy of the memorandum written by Mr. John P. Mohr to Richard G. Kleindienst, former Acting Attorney General, regarding the securing of Director Hoover's office at the time of his death. A search of FBI files revealed that such a memorandum does exist and there is attached for the Committee's information a Xerox copy of this memorandum. Additionally, a search of the files failed to show any written request from the former Acting Attorney General or anyone else in the Department of Justice regarding the securing of Mr. Hoover's Office.

REQUEST FOR INFORMATION BY THE SUBCOMMITTEE ON GOVERNMENT
INFORMATION AND INDIVIDUAL RIGHTS OF THE HOUSE COMMITTEE ON
GOVERNMENT OPERATIONS

The Committee asked for comments regarding the impact of the Freedom of Information and Privacy Acts on FBI operations and resulting costs. Additionally, this should include some data regarding handling of the Rosenberg case. The following is in response to this request:

The Freedom of Information Act (FOIA) Unit became operational in October, 1973, to implement then Attorney General Richardson's Order that investigatory files compiled for law enforcement purposes may be disclosed when the following criteria are met:

- 1) The requester is a bona fide scholar or researcher;
- 2) The investigatory file is over 15 years old;
- 3) The subject matter is of historical interest to the general public.

At that time, the FOIA Unit consisted of three Special Agents, three Research Analysts, and two clerical employees.

During the period October through December, 1973, 64 requests were received which amounted to 1 per workday. From January through December 31, 1974, 447 requests were received which averaged out to 1.29 per workday.

During the first eleven months of this year, 12, 848 requests have been received, with the largest amount of requests, 2,095, being received during the month of August. It is noted that since April our average receipt per workday has been approximately 72 requests. However, FOIA-related matters that are

REQUEST FOR INFORMATION BY THE SUBCOMMITTEE ON GOVERNMENT
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handled by this Section averaged 107 per workday. As of November 26, 1975, we had 5,421 requests "in the house" and were in some stage of processing 1,028 of these requests, with the remainder awaiting to be assigned for active processing.

During 1974, the complement of the FOIA Unit was gradually increased to 16 employees. In anticipation of the increase of work under the provisions of the new amendments to the Freedom of Information Act, the FOIA complement has been increased to a total of 152 people which, broken down, represents 20 Agents and 132 clerical employees. In addition, with the formation of the Privacy Act Unit, we have increased our complement as of this time by 16 individuals, three Agents and thirteen clerical employees, and are in the process of adding three more Agents and 19 clerical employees to that Unit which will result in a total complement of 190 employees.

Approximately 90 to 95 percent of all requests are from individual citizens asking for any records the FBI may have concerning them. The balance of requests are received from a wide variety of persons such as scholars, lawyers, Congressmen, students, the news media, and plain "curiosity seekers."

It has been decided by the Department of Justice that those requests by individuals seeking access to records about themselves will be handled pursuant to the procedures of the Privacy Act.

It is noted that, in addition to granting individuals access to Government records, provisions of the Privacy Act substantively affect FBI investigations, especially in applicant and civil cases. For example, in such cases confidentiality of sources must be expressed at the request of the individual interviewed. Further, applicants and subjects of civil investigations from whom we solicit information must be provided with a form indicating the authority for the investigation and the purposes for which the information is being obtained.

REQUEST FOR INFORMATION BY THE SUBCOMMITTEE ON GOVERNMENT
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In House Report No. 93-876, captioned, "Amending Section 552 of Title 5, United States Code, Known As The Freedom of Information Act," dated March 5, 1974 (to accompany H. R. 12471), the House Committee on Government Operations estimated the total cost of the FOIA amendments for all Federal agencies to be \$50,000 in fiscal 1974 and \$100,000 for each of the succeeding five fiscal years.

It is pointed out that the cost to the Federal Bureau of Investigation prior to those amendments for fiscal 1974 was \$160,000. In fiscal 1975, it jumped to \$462,000 and for fiscal 1976 we have estimated the cost to be \$2,675,000. For fiscal 1977 we have estimated the cost to be the same, \$2,675,000, plus an additional \$752,000 for implementation of the Privacy Act of 1974 for a total of \$3,427,000. We can attribute the bulk of these costs to the amendments.

With regard to your inquiry about the Rosenberg case, by letter dated February 20, 1975, directed to the Department of Justice, the plaintiffs, Michael and Robert Meeropol, requested all of the records relating directly or indirectly to the investigation of Julius and Ethel Rosenberg. Negotiations ensued between the Department of Justice and the Meeropol brothers for several months following their initial request. However, on July 14, 1975, plaintiffs filed an action seeking to obtain copies of the previously requested documents. The United States District Court Judge handling this case issued a court order in August directing the FBI to file with the court a detailed listing of each document which would be identifiable with the documents the Meeropols were seeking.

The total accumulative cost for the period August 18, 1975, to November 25, 1975, for this suit amounts to \$215,593.65. This figure is limited to salaries of employees assigned to search and review both the main

REQUEST FOR INFORMATION BY THE SUBCOMMITTEE ON GOVERNMENT
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files and "see" references. Chargeable search fees incurred in processing the requests amounted to \$20,458.00 and, in addition, \$2,993.80 in chargeable reproduction costs. The search charges allowable under the Freedom of Information Act have been waived by the Department of Justice.

The task to comply with a court order in this suit was herculean and compliance was only possible because of the extraordinary effort put forth by all personnel in the Freedom of Information-Privacy Acts Section as well as the rest of the Files and Communications Division. During the various periods during the last few months we had up to 80 employees working on this project at one time. In fact, it was necessary to bring in some employees from our field divisions to work on this case. It should also be pointed out that many of the employees involved in this project were required to work weekends in order to meet the court deadline. It is noted that should we receive similar suits at the same time it will be literally impossible for the FBI to comply with orders to furnish documents by a certain deadline. The handling of many hundreds of requests received under the Freedom of Information and Privacy Acts which ordinarily would have been processed during the August 27 through November 15, 1975, period, was deferred to accommodate the judicially preferred Meeropol request.

Enclosure

Richard G. Fleindienst
Acting Attorney General

May 2, 1972

John P. Mohr
Assistant to the Director, FBI

In accordance with your instructions, Mr. Hoover's private, personal office was secured at 11:40 a.m. today. It was necessary to change the lock on one door in order to accomplish this.

To my knowledge, the contents of the office are exactly as they would have been had Mr. Hoover reported to the office this morning. I have in my possession the only key to the office.

- 1 - Mr. Tolson
- 1 - Miss Gandy

Received by
John P. Mohr
1:15 pm 5/2/72
JPM

File
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Mr. STEIGER. I think this also comes under the Freedom of Information Act. The decision in the Rosenberg matter in which the department was instructed with a time certain compliance date set to furnish all of the documents in the Rosenberg matter. I would have to believe that that is a lot of documents.

Are you familiar with what your department had to go through for the Rosenberg situation?

Mr. McDERMOTT. I'm especially aware of that, Mr. Steiger, because of the disruptive influence that the court order has had on the administration of the Freedom of Information Act and Privacy Act.

Specifically, I believe, the court order was dated August 27. From August 27 through November 16 of this year just the dollar cost of personnel salaries alone in complying with that court order was in excess of \$215,000.

Mr. STEIGER. That is still ongoing?

Mr. McDERMOTT. We have just about reached the point of compliance and now the negotiations are proceeding. This is between the Justice Department and the court and the plaintiff's attorneys in the matter.

It is important to find out, however, that this is, while a substantial request under the Freedom of Information Act, that is the documents and references to the *Rosenberg* case and other major matters, it is important that the committee realize that the Freedom of Information Act section at times had to devote fully 50 percent of its staff to the processing of this request alone.

This means that other requests had to be put on the back burner.

Mr. STEIGER. That's the same staff that you referred to, that is the 200 people and the \$3 million. You say that almost half of those were involved?

Mr. McDERMOTT. Yes.

Mr. STEIGER. I gather there are several actions similar to the *Rosenberg* action under which there is some sort of litigation.

What would happen if two or three of those came at once? Are you going to reach the point under your mathematics where the whole section would be devoted to this? Have you considered the fact that you would eventually be either forced into amicus curiae situation in the court to urge they not issue the order or come to Congress to ask for more money for more people?

Mr. McDERMOTT. The unfortunate thing is that the Congress legislated the kind of discretion which the U.S. District Court in the District of Columbia exercised in the *Meeropol* case. The court only has the obligation and perhaps only has the authority to consider the handling of Freedom of Information Act requests which are brought before that specific court.

Mr. STEIGER. On an issue-by-issue basis?

Mr. McDERMOTT. That is correct.

Therefore, it would not concern itself with the administrative overhead and the destructive effect it will have in other areas. The courts now enjoy that discretion under the act as presently written.

Mr. STEIGER. Are you suggesting that we need legislation either to empower the court to consider the overall impact of a specific issue it is considering on the process or to limit the process? Do you have a recommendation?

Mr. McDERMOTT. I do think the committee and the Congress should most certainly study the experience that we've had thus far and to project it to the point where they can realize that, given two or three other massive requests like this, will do one of two things. It will either put the routine Freedom of Information and Privacy Acts requests all on the back burner to the disadvantage of other requesters or force the FBI in an attempt to achieve compliance to devote even more hundreds of additional personnel to processing these requests.

Mr. STEIGER. At the expense of some other existing operation.

Mr. McDERMOTT. Precisely.

To the long range disadvantage of our basic mandate.

Mr. STEIGER. With the Chair's permission, I will ask that you also, if you will, in the memo which you address the Freedom of Information Act administrative impact, if you would also just have a short paragraph summarizing the effect of the *Rosenberg* decision on that operation. I think there ought to be somewhere in this record a specific history of that impact. I don't know if we have it anywhere else.

Mr. MAGUIRE. Without objection, so ordered.

[The material referred to appears at p. 115.]

Mr. McDERMOTT. May I point out one other thing, Mr. Steiger, the fee that was requested of the Meeropols in connection with the research on the *Rosenberg* case constituted approximately \$20,000 for research, that is searching purposes, that is to actually go out and search the files where the information is contained. Approximately \$3,500 in costs of reproduction, that is Xeroxing.

This you see is only a minuscule percentage as compared with the entire personnel costs which are in excess of \$215,000.

Mr. STEIGER. Something over 10 percent?

Mr. McDERMOTT. Yes.

Mr. STEIGER. I have no further questions, Mr. Chairman.

Mr. MAGUIRE. With regard to the matter that the gentleman from Arizona raised for inclusion in the record, so ordered.

Mr. MAGUIRE. Let me ask this.

Let me ask further about the "do not file" label.

The Kissinger wiretap information, sometimes referred to as the "June" files, can you tell us where these were filed?

Mr. McDERMOTT. The "June" file label was frequently assigned to documents of a sensitive nature and are for the most part maintained in the special file room in the record section, Files and Communication Division.

Mr. MAGUIRE. With regard to inquiries that Mr. Gray has stated were initiated on Members of Congress after about 1960, I understand that the practice of requesting information on Members of Congress for those who were seeking election by sending routing slips to various FBI field offices was begun. Is it my understanding that the routing slip would not appear in the central files?

Mr. McDERMOTT. Ordinarily, no. It is precisely what it sounds like. It is a means of directing a document to a certain destination.

Usually, it is not intended for filing although there are times when a routing slip would end up with information and somebody would decide rather than rewrite it, just initial it approving its filing and in that unusual instance it could become part of the permanent file.

Mr. MAGUIRE. If I read Mr. Gray correctly, this was not a case of passing on some information. It was rather a way of requesting that information be developed and sent in from field offices.

Mr. McDERMOTT. This can be used as a device for issuing instructions as well.

Mr. MAGUIRE. Or making requests.

In that instance, it would still not appear in the files.

Mr. McDERMOTT. Because it was the intention of the author that it not be made part of the permanent file holdings.

Apparently, the author did not see anything to be gained by permanently recording such a document.

Mr. MAGUIRE. So in effect what you are saying is that requests could go out for information to be developed and submitted on Members of Congress without any record of that instruction being included in the file?

Mr. McDERMOTT. You have me at a disadvantage. I have not seen Mr. Gray's testimony. I do know that on other occasions and other forums individuals have testified from the Bureau to the effect that this was a device of getting some biographical data on a duly elected Congressman frequently to be backup material to a letter of congratulations on his recent election.

Mr. MAGUIRE. To quote Mr. Gray:

In 1960 the practice was begun of requesting such information by sending routing slips to the various FBI field offices. This has been followed each election year since that time. The information was gathered for our own internal use and not in response to any regulation or statute.

That was done as Mr. Gray indicates by sending routing slips which by your testimony, I gather, was not inserted in the files.

Mr. McDERMOTT. I would say the practice would be not, although I do concede there could be exceptions.

Mr. MAGUIRE. Going back to the question of the Kissinger wiretaps, were the files on those wiretaps indexed?

Mr. McDERMOTT. I must plead ignorance to the entire thing.

I only took over the files in the Communications Division at FBI Headquarters this past February.

Mr. MAGUIRE. Would it be possible to go over the index and find out whether they were in fact indexed in the files?

Mr. McDERMOTT. If our regular procedures were followed, most certainly it could be possible. I cannot speak of personal knowledge.

Mr. MAGUIRE. Could we request that that be done and that you report back to the committee as to what you find?

Mr. McDERMOTT. Yes.

Mr. MAGUIRE. So ordered.

[The material referred to appears at p. 109.]

Mr. MAGUIRE. The suicide threat letter which was sent to Martin Luther King: Where was that letter and in what file was that letter contained?

Mr. McDERMOTT. I would like to first of all say a couple of things.

I don't attempt to explain or justify the practice. But, I think you are jumping to a conclusion here when you state that there was a suggestion of suicide. Suicide was not mentioned. That is possible. That's one of the things you could read into it.

Mr. MAGUIRE. Let me rephrase it. It's described as the letter which was a part of the harassment campaign conducted against Dr. King by the FBI over a period of 6 years which included among other things a letter which apparently was interpreted by Dr. King and could be interpreted by others reading it as an effort to press Mr. King into committing suicide. I trust that this statement clarifies my question.

Now, would you tell us what you know about where that letter was filed and what file it was found in?

Mr. McDERMOTT. It was not filed. It never became part of the Bureau's record holdings. I have no idea who prepared it. I don't know if any extra copy was ever retained, that is by anyone.

I do know that we had no copies of it in our files; therefore, whoever prepared it did not intend a copy to become part of our permanent file holdings.

Mr. STEIGER. Will the Chair yield?

Mr. MAGUIRE. Yes.

Mr. STEIGER. It occurs to me that this whole affair of the Martin Luther King letter, written by the FBI, is probably as good an example of either the lack of efficiency on the part of the so-called effort to conceal the FBI's activities or one in which the whole blue slip or routing slip device of concealing things fell through. It's apparently not possible to conceal anything in an operation as large as the FBI.

This is a classic example that if anything is going to be concealed then it's going to be impossible. It seems to me that its presence today and the admission of its authorship is the loudest evidence in the world that the FBI is not attempting to hide anything, even what may be its greatest mistake.

I wish you would invoke that more and recognize that, rather than a source of embarrassment but should also be pointed to as an example of the fact the FBI is not bulletproof.

Mr. McDERMOTT. I will not attempt to justify the practice of sending the letter.

But, I would like also to pick up on your statement by adding that had a record been maintained then we would right now not be struggling with the effort of establishing responsibility for it.

Mr. STEIGER. That's a good point.

Mr. MAGUIRE. Is the gentleman from Arizona satisfied that all the information as to illegal and improper activities of the FBI is now available to the committee and to the public?

Mr. STEIGER. If you are saying that I am convinced that the FBI has never erred, I would not say that.

I would tell the Chair that I am convinced that whatever heinous act the FBI has committed has been aired and reaired.

Mr. MAGUIRE. There are not any others that need to be uncovered or explored?

Mr. STEIGER. Perhaps the gentleman has better information than I do, but I can assure you that you are not going to get it by attacking the blue slip method.

Mr. MAGUIRE. I'm sure the gentleman shares with me the desire that we do get the facts. That's what the purpose of this investigation is. I'm confident that the gentleman shares the feelings of the Chair in that respect.

Mr. STEIGER. Don't be so confident with that.

Mr. MAGUIRE. This morning, Mr. McDermott, we had some conflicting testimony of Mr. Mohr and Mr. Kleindienst.

Mr. Kleindienst indicated that he had given a verbal instruction that Mr. Hoover's offices should be sealed. I gather that Mr. Kleindienst interpreted that in the broadest sense to include not just personal office but the suite of offices.

We later heard from Mr. Mohr that he had interpreted the request as relating simply to the personal office.

Furthermore, he said he had written a memorandum to Mr. Kleindienst indicating that the offices had been secured as he had been instructed to do.

Do you have any knowledge of such memorandum and could you produce a copy of the memorandum for the committee?

Mr. McDERMOTT. I have no knowledge of it. I was not here for Mr. Kleindienst's testimony, but I accept what you tell me.

I did hear Mr. Mohr testify as to the oral instructions received from the Acting Attorney General.

I have no knowledge of such a note.

What was your second question?

Mr. MAGUIRE. If you have no knowledge of it then I gather that you would find it difficult to produce the memorandum. If it had been written and if it were somewhere in the files, where would it be?

Mr. McDERMOTT. I would be hard pressed to say. It could fall into a number of different areas.

Mr. MAGUIRE. This is a rather critical question on which we received some conflicting testimony this morning. I wonder if I might add to my earlier request that you look for that memorandum so that we can resolve this conflict in testimony between Mr. Kleindienst and Mr. Mohr.

Mr. McDERMOTT. Not having been here for Mr. Kleindienst's testimony, I should like to clarify the request.

Mr. STEIGER. Would the Chair yield at this point?

Mr. MAGUIRE. Let me get this straight.

Mr. McDERMOTT. Could you clarify the request?

Mr. MAGUIRE. We would like a copy of Mohr's memo. He indicated that a memo had been written. It must be somewhere in the files. It must be part of the investigation. We would appreciate having confirmation.

Mr. McDERMOTT. We would be happy to look for it.

[The memorandum follows:]

MAY 2, 1972.

RICHARD G. KLEINDIENST,
Acting Attorney General,
JOHN P. MOHR,
Assistant to the Director, FBI.

In accordance with your instructions, Mr. Hoover's private, personal office was secured at 11:40 a.m. today. It was necessary to change the lock on one door in order to accomplish this.

To my knowledge, the contents of the office are exactly as they would have been had Mr. Hoover reported to the office this morning. I have in my possession the only key to the office.

Mr. STEIGER. I thank the Chair for yielding.

I think the record ought to reflect that I was here for Mr. Kleindienst's testimony. He said, "I ordered the offices of the Director

secured." He went on to say that he did it verbally and at the moment virtually of his being advised that the Director was dead.

The memo that we are talking about is the acknowledgment of that by Mr. Mohr which I think is a proper request on the part of the Chair.

But, as far as this being something sinister, I think we are off the boat here. The fact that Director Hoover had some personal files would surprise nobody. The fact that he ordered them destroyed is a decision of which was endorsed by his successor and his acting successor and the official acting successor. So, if there was anything in there—in the personal files—which would have been of interest, then I assume we will never know what it was.

Maybe that's good or maybe it's bad, but the fact is that I hope we don't make something out of the fact that if a memo was written acknowledging Mr. Kleindienst's order and it is not available, then I don't think we should make something sinister out of it.

Mr. MAGUIRE. I was not present when Mr. Kleindienst testified but it is my understanding, and I quote from his letter, that he verbally instructed, "to secure and lock the offices of Director Hoover." His discussion this morning, as I understand it, made it perfectly plain that he was talking about securing the files.

Mr. STEIGER. I don't see where the conflict lies. I think you ought to spell out the conflict here between Mr. Mohr's understanding and that statement.

Mr. MAGUIRE. The files were not in the personal offices. They were in the suite as I understand it.

Mr. STEIGER. I'm sensitive about this because I think Mr. Kleindienst has undergone a good deal of unnecessary abuse.

I won't allow this.

There was no conflict. He said he wanted to secure the offices. He meant by that the files. That's obviously all that's important. That's what Miss Gandy understood; that's what Mr. Mohr understood. There is no conflict except in the minds of these two gentlemen on your side, that is the staff members. I think the record ought to show that.

Mr. MAGUIRE. I think the record will show exactly what was said this morning. I think it will show that Mr. Mohr's memo would be of valuable assistance to the committee in the event that Mr. McDermott can furnish it to the committee, that would help.

I look forward to discussing the matter further with the gentleman from Arizona.

I call upon Mr. Jacobs who has worked on this investigation. Mr. Jacobs?

Mr. JACOBS. I have a good many questions on the Privacy Act and the Freedom of Information Act.

The hour is late. I don't know that we can get into all of them now.

I would like to reserve the opportunity to submit questions to you in writing and have you supply the answers for the record.

Mr. McDERMOTT. I will be happy to.

Mr. JACOBS. I would like to ask one or two questions now.

One of them involves the filing, under the Privacy Act, by the FBI of its systems of records.

As you know, the FBI has filed one basic system, that is the FBI Central Records System.

There is no separate listing for something called the Administrative Index or the Agitator Index or the Stop Index, among other systems that have been made public.

My question is this. Given that there has been an opinion of the Library of Congress, which has been communicated to you, that the FBI's filing of basically a single system does not conform with the requirements of the Privacy Act, are you prepared to separately list systems such as the Administrative Index and similar indexes?

Mr. McDERMOTT. No; we are not.

We disagree with the interpretation of the law by the Library of Congress.

We prefer to follow the interpretation of the law by the Department of Justice which of course is to whom we respond.

Mr. JACOBS. Do you have an opinion on that?

Mr. McDERMOTT. Precisely.

This matter was discussed with the Department of Justice in the Office of Legal Counsel prior to the actual publication of our record systems in the Federal Register. It was at that time and with their concurrence that we decided not to include into the publication of the Federal Register any systems of records which were duplicative.

Our system of records is rather unique in the Federal Government in that we do not have an almost endless number of systems but rather one major system which is accessed through central indexes.

The purpose of the Privacy Act, as you well know, was to permit an individual access to information in Government records concerning himself.

The necessity and the requirement that the systems of records be published was as a device to let John Q. Citizen know what system should be searched that contained information concerning him.

Inasmuch as any information concerning John Q. Citizen is locatable through our central indexes, then we in the Department of Justice feel that we have complied fully with the publication requirements of the statute.

Mr. JACOBS. May I ask that you supply for the record a copy of the opinions of the Department of Justice so indicating that your filing is correct?

Mr. McDERMOTT. I'm not sure that we have a written statement. If we do, I'll be happy to supply it.

Mr. MAGUIRE. Without objection, that information will be entered into the record.

[The information follows:]

In accordance with guidance from the Department of Justice as to what constitutes a "system of records" under the Privacy Act of 1974, the Federal Bureau of Investigation (FBI) did not list the "Administrative Index" as a separate system of records. This was based on the fact that information concerning the Administrative Index on a particular individual is in the central files of the FBI and, thereby, accessible in response to a request from a particular individual.

The decision not to list duplicative systems of records was made by the Department of Justice, not for the purpose of omitting a description of a particular FBI record. The FBI is sensitive to the maintenance of such a list as the Administrative Index and the listing of that index under the Privacy Act was specifically discussed with the Department. They advised that if the information was available in the central files it would not be necessary to report it separately, and this was our guiding policy.

It is our view that descriptions required by the Privacy Act were designed to allow individuals more ready access to information which concerns them in

Government records. The Act specifically states that its purpose is to "permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies." By reason of the manner in which our files are set up, individuals can readily obtain the information which concerns themselves in FBI files.

For your information the "Agitator Index" was discontinued in April of 1971. The "Key Activist Index" was discontinued in February of this year, as was the "Key Extremist Index."

Mr. JACOBS. In addition to protecting John Q. Citizen and to give him awareness of any files on him in particular, another purpose of the act was to inform the public at large as to the extent of recordkeeping, that is, the extent of systems of records maintained by an organization such as the FBI.

It was intended——

Mr. McDERMOTT. If that was the purpose, Mr. Jacobs, it was not contained in the statute. The statute says this:

The purpose of this act is to provide certain safeguards for an individual against invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to (1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies.

There is nothing here in the statement of purpose to say that the purpose was to educate the world as to the nature of Government files.

Mr. JACOBS. There are several purposes of the act and we don't need to debate it now.

Mr. McDERMOTT. It doesn't appear in the statute.

Mr. JACOBS. Would you allow the General Accounting Office to conduct an audit to determine if the FBI has properly listed all of its records systems pursuant to the Privacy Act?

Mr. McDERMOTT. That would not be my decision to make.

You are well aware of that. This would be passed on to Mr. Kelley and certainly would be subject to consideration of the Attorney General.

Mr. JACOBS. I have further questions on the Privacy Act.

Mr. McDERMOTT. Let me correct so as not to be guilty of a misstatement.

I said before, "All information concerning an individual is accessible through our central indexes." I should like to add that that which is not accessible through our central indexes but is maintained has been the subject of publication as a separate system of records in the Federal Register.

Mr. JACOBS. As I said, I'll reserve further questions on the Privacy Act to be submitted in writing.

Is a check made on every individual who requests a file under the Freedom of Information Act? That is, is a name check made?

Mr. McDERMOTT. I would say probably so.

This should not be considered alarming when approximately 95 percent of requests received under the Freedom of Information Act constitute the requests of the correspondent for information about himself.

Mr. JACOBS. What purpose would be served to do a name check if John Jones writes to the FBI and says, "I want to know if you have a file on a particular subject?" Why would it be necessary to pull his file?

Mr. McDERMOTT. First of all, we may already have had a file on John Jones who is now requesting information on some other subject

matter completely. This is a matter of efficient recordkeeping, and we like to keep correspondence relating to the same correspondent in the same file. It's just efficient records management.

Mr. JACOBS. Does the nature of the file affect the disposition of the freedom of information request?

Mr. McDERMOTT. Would you restate that?

Mr. JACOBS. Does the nature of the file on the person making the freedom of information request affect the FBI's disposition of his request?

Mr. McDERMOTT. Absolutely not. We are governed by the terms of the act.

Mr. JACOBS. I would like to point out for the record that in a deposition of Richard C. Dennis, Jr., who is a special agent with the freedom of information unit, taken in the case of Weinstein against Saxbe, Mr. Dennis testified that the file check is made and that the nature of the file on the individual does affect the disposition of the freedom of information request.

Mr. Chairman, I will reserve any further questions for written request.

Mr. McDERMOTT. I would like to have the record cleared on that last point. I have Mr. Dennis here, and I would like to consult with him briefly.

I've consulted with Mr. Dennis, who is the affiant in that matter. He tells me that if he did in fact say in this long deposition that the contents of our file references would influence in any manner the manner in which we would respond to the FOIA request, that would have been a misstatement and a mistake on his part. He has supported the position that I have just given you that in no manner would the prior references maintained in Bureau files influence the nature of the substantive data that would be furnished to a requester under either the Privacy or the Freedom of Information Act.

I don't think I can make that more clear.

Mr. MAGUIRE. Thank you.

Let me ask one additional question.

Is there anywhere in the FBI Building a file that contains master copies or one file copy, or what have you, of the "No File Systems Communications"?

Mr. McDERMOTT. No. We did a search of that matter. We could find no instructions of any relevance beyond the ones which I alluded to in my prepared statement. Am I being responsive?

Mr. MAGUIRE. There is no such file in the extra-secure room?

Mr. McDERMOTT. We do have one now. It's not a file containing the instructions on the "Do not file" procedure; but anticipating the question of the committee, I did cause an inquiry to be made of all of our headquarter's divisions, and I did find that there were four volumes maintained in the Intelligence Division which had been labeled "Do not file." They referred to substantive matters which, of course, I'm not at liberty to discuss here, but only spanning the period of 1942 to 1946.

Why they were maintained in the Intelligence Division and at whose original instructions, I have no idea.

But, the Division has been headed up by a number of Assistant Directors since 1946 and apparently string saving is the only possible explanation. It was just maintained.

Mr. MAGUIRE. What's the volume?

Mr. McDERMOTT. The volume is approximately 1 inch in thickness.

Mr. MAGUIRE. Were there no such discoveries relating to the period 1946 to 1972?

Mr. McDERMOTT. No.

Mr. MAGUIRE. Does that—

Mr. McDERMOTT. I have canvassed the Assistant Directors of all of the divisions, and I have memorandums to support their position that a current search of their front offices and wherever else any such material would be maintained, revealed no such material with the exception of the material I just described.

Mr. MAGUIRE. Does this include the special-secure room that was alluded to?

Mr. McDERMOTT. We call that our special file room. It's part of the Record Section in the Files and Communications Division of which I am the Assistant Director.

Mr. MAGUIRE. That does not contain "Do not file" material?

Mr. McDERMOTT. It is possible that certain of the official and confidential material, which moved from Mr. Felt's office over to the special file room, contained such memorandums.

But no special files labeled "Do not file" are there.

Mr. MAGUIRE. So, there was no master file maintained of the "Do not file" communications that were transmitted under the blue slip or pink slip procedure during all of those years that this procedure was in force?

Mr. McDERMOTT. No.

We actively looked for such a file, being unfamiliar and not on the scene at the time, and we could find none.

Mr. MAGUIRE. Is it conceivable that such a file could have been kept in Mr. Hoover's offices?

Mr. McDERMOTT. I am not privy to what files were in Mr. Hoover's office. Any answer I would give you would be purely speculative.

Mr. MAGUIRE. It would seem logical that there would be some master file somewhere.

Mr. McDERMOTT. I don't know why it would serve any purpose.

Mr. MAGUIRE. Are there any other questions?

Mr. STEIGER. No further questions.

Mr. JACOBS. Let me ask one further question.

The act provides that records maintained by Federal agencies must be "accurate, timely, and relevant."

What procedures have you instituted to insure that your files conform to these requirements?

Mr. McDERMOTT. The accuracy requirement is accommodated at the time of the creation of the record. I can assure you that the FBI diligently works at making and creating accurate records.

Mr. JACOBS. How about timely and relevant?

Mr. McDERMOTT. As far as the timeliness of records is concerned, we are subject to the rules of the National Archives and Records Service which has proposed a records control schedule.

We are in compliance with the records control schedule and the rules promulgated by the National Archives and Records Service.

Mr. JACOBS. Isn't it a fact that you exempted FBI records from the Privacy Act's requirements that you "maintain all records which are used by an agency in making any determination about any individual

with such accuracy, relevance, and timeliness and completeness as is reasonably necessary to assure fairness to the individual in the determination"? The FBI has exempted itself from that requirement, is that not correct?

Mr. McDERMOTT. You are correct, Mr. Jacobs. The FBI did avail itself of that exemption, for some of our criminal investigative records.

One of the reasons for it perhaps was the fact that had we not, we would be required to go back through our file holdings, some 6½ million files, to determine what was obsolete and what was timely.

Even then we would not have the authority to destroy unless the entire records control schedule and our records retention plan were modified by the National Archives and Record Service.

Mr. JACOBS. But that provision applies to every agency in the Federal Government. Every other agency of the Federal Government does not view its responsibility to go back over the millions of records.

Mr. McDERMOTT. Are you prepared to say that we are the only one that availed ourselves of that exemption?

Mr. STEIGER. Is that exemption a function of the statute?

Mr. McDERMOTT. Yes.

Mr. STEIGER. The statute permits that exemption.

Mr. JACOBS. My question is, why would the FBI avail itself of the exemption?

Mr. McDERMOTT. I would think the committee would know why.

Mr. JACOBS. It is not required that the FBI exempt itself.

Mr. McDERMOTT. It is permitted.

Mr. JACOBS. My question is, why did the FBI utilize it?

Mr. McDERMOTT. Obviously, because it would create an administrative monstrosity to which we would have to address hundreds of employees to attempt compliance.

Mr. JACOBS. Of course, one alternative is simply to adhere to the standard every time a file is used. You don't use all of the 6½ million files every day.

Other agencies have indicated that that is the way they intend to adhere to that standard.

Mr. McDERMOTT. Right now there is in the Department of Justice an Attorney General's Guidelines Committee on the Creation, Maintenance, Retention, Dissemination, and Destruction of Department of Justice Records. Of course, our records will be included among them.

The Attorney General has agreed with Congressman Don Edwards of the Subcommittee on Constitutional and Civil Rights to consult with that committee which also is exercising oversight of the FBI, in concluding acceptable, workable guidelines with regard to the creation, maintenance, dissemination, and destruction of records.

It is currently under consideration; that is, what final decision will be made I cannot say.

Mr. FINK. From reading your prepared testimony, Mr. McDermott, I note virtually all documents are assigned a number. Is that correct?

Mr. McDERMOTT. This is usually so.

Mr. FINK. We have a document here related to the assassination of President Kennedy that has no Bureau identification number on it. Instead, it says in the upper right-hand corner, written by hand, "Route by envelope." Where would something like that be filed?

Mr. McDERMOTT. The placing of a rubber stamp—

Mr. FINK. This is handwritten.

Mr. McDERMOTT. Well, we have rubber stamps, impressions of which we can place on documents where the originator or sender feels that because of the contents they would care to restrict the visibility or access to the contents of it.

It is just a mere administrative device to grant an extra degree of security to the contents of the document.

It has no control whatsoever as to where the document ultimately will be filed.

Mr. FINK. Was this a fairly common practice in regard to the Kennedy assassination?

Mr. McDERMOTT. I was not at FBI Headquarters at the time. I was in Minneapolis at one period and the Washington field office for another. I could not say what the headquarters' practice was at the time.

I do say that as a general proposition it would not be uncommon to use such a designation or issue such an instruction with regard to the handling of the document where those sending it or receiving it desire access to the contents to be rather restricted.

Another degree of secure handling might be to have it hand carried rather than turning the thing loose in our general messenger system. It's a judgment call on the part of the sender.

Mr. FINK. Do I understand your testimony correctly that sooner or later documents with that designation will become part of the general file?

Mr. McDERMOTT. Unless somebody considers it a document not deserving or warranting permanent retention in our file holdings, in which case it would be a "Do Not File" type of memo as well as a "Route by Messenger" or a "Route in Envelope" type of thing.

Mr. FINK. Would either of your colleagues know if this was a common practice during the Kennedy investigation?

Mr. HELGESON. I don't know.

Mr. AWE. I don't know.

Mr. MAGUIRE. Thank you very much for your testimony, Mr. McDermott.

In concluding these hearings today the enormous importance of these hearings is clearly evident when we contemplate the fact that the FBI has been entrusted with such great and tremendously important national responsibilities.

The evidence which has been developed and documented by this and other House committees with regard to the coverup of the relationship between Oswald and the FBI, and the destruction of important materials relating to Oswald; the 6-year campaign of threats against Martin Luther King, and the improper and illegal political surveillance which was conducted by the FBI; other Government agencies over an extended period of time which this and other committees have documented, all makes the inquiry which we've engaged in today of the utmost importance.

We must safeguard the freedoms under our Constitution. If we are going to insure that the FBI and other agencies act responsibly under the laws of this land, we must continue to scrutinize carefully those who disregard or abuse their constitutional commitments.

We will hold the record open for additions as they may be forthcoming.

The hearing is now adjourned.

[Mr. McDermott's prepared statement follows:]

PREPARED STATEMENT OF JOHN J. McDERMOTT, ASSISTANT DIRECTOR,
FEDERAL BUREAU OF INVESTIGATION

I have been asked to appear here today to provide basic information regarding the FBI record keeping system. Your request also specifically mentioned the "Official and Confidential" files that were kept by Mr. Hoover and the "Do Not File" files. Also, you requested information as to when files are destroyed, turned over to Archives, or otherwise disposed of. In connection with your interest in this matter, you may be assured of the FBI's complete cooperation, and I hope to resolve any questions you or your committee may have regarding the record system.

I would first like to point out that the FBI, by its very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically, our records are the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public.

The records are for use of the FBI in support of its mission to investigate matters within its jurisdiction as set forth in the various Federal statutes and Executive Orders and for various administrative purposes. In addition, information from these files is disseminated to other Government and law enforcement agencies with a need and right to know in those instances where an official reason exists for such dissemination. The FBI is under obligation to act as a clearinghouse for information which affects the internal security of the United States. This includes the National Security Act of 1947 and Executive Order 10450 regarding the Security of Government Employees.

Regulations of the National Archives and Records Service (NARS), General Services Administration, which are based on Title 44, Chapter 33, Section 3301 U. S. Code, govern the type of material which we must maintain.

The FBI Central Records System is a manual system designed to be completely responsive to the Bureau's needs by facilitating prompt retrieval of data previously filed.

I would like to explain to you in brief detail how the system functions and hopefully this will be responsive to your stated interest. I will then comment on the "Official and Confidential Files" and the "Do Not File" files in accordance with your request.

THE FBI CENTRAL RECORDS SYSTEM

The FBI utilizes a central records system in maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files

kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

All information on a given subject matter or case is channeled into one file. In order to facilitate control of the file and accommodate multiple subject(s) matters, a numbering system is used to indicate:

- (1) general classification and nature of violation;
- (2) the individual case file in this category; and
- (3) serialization of individual pieces of mail in the file. For instance, the number 7-100-10 on a piece of mail indicates it is the 10th piece of mail in the 100th file assigned to the Kidnaping (7) classification.

The FBI has 186 classifications used in its basic filing system. They pertain primarily to the federal violations over which the FBI has investigative jurisdiction. However, included in the 186 classifications are personnel, applicant and administrative matters to facilitate the overall filing scheme. (A list identifying each of these classifications is attached as Exhibit A.)

The key to these numerically maintained files is our general indices, consisting of index cards on all manner of subject matters but primarily a name index of individuals. This index must be searched to determine what information, if any, the FBI may have in its files. (A separate search in the Identification Division is necessary in order to accurately determine what information the Bureau may have in its fingerprint records.)

The FBIHQ system contains over 6,000,000 volumes of files and an index to the files of more than 58,000,000 cards. Average daily activity includes processing 10,000 name check forms received from other Government agencies, handling 4,000 file requests and processing 6,000 pieces of mail for file. This high volume of activity requires over 1,150 employees for service and maintenance.

In order to more fully understand the record system, there is attached as Exhibit B, a diagram showing how a piece of mail is processed at FBIHQ and becomes part of a file in the FBI Central Records System.

The following is a brief explanation of the system:

RECEIVING AND ROUTING OF MAIL

All mail addressed to the FBI (except fingerprint cards and related Identification Division matters) is received in the Routing Unit, Records Section, of the Files and Communications Division. Employees of this unit open all mail, place a block stamp on the mail to indicate the date the mail was received, and determine from the nature of the mail, the correct Division, Section or person in FBIHQ who should receive the mail for proper handling.

If the mail is of an expedite nature, it is sent by messenger service directly to the responsible division.

If it does not fall into the expedite category, the mail is then sent to the Classifying Unit.

CLASSIFYING AND INDEXING MAIL

Employees in the Classifying Unit determine which of the 186 basic classifications will be applied to the mail. This step places the mail in a basic category and the classification number is written on the mail and thus becomes the first part of the file number.

Employees in the Classifying Unit also review the mail to determine how it should be indexed. Generally speaking, the subject matter in the caption of a communication is marked for indexing and is usually referred to as the main subject of the file. Other significant names, or subject matter, mentioned in the communications are marked for indexing to facilitate future retrieval.

SEARCHING FOR FILE NUMBER

After the mail has been classified and marked for indexing, it is searched to determine if there is an existing file in which the mail should be placed. If there is an existing file on the subject matter being searched, the same case file number is written on the mail. If, on the other hand, there is no existing file that agrees with the subject matter being searched, the next consecutive case number within the applicable classification is assigned to the mail. A new file is thereby established and the piece of mail becomes the first serial in the file.

SERIALIZATION OR NUMBERING OF MAIL

Serial numbers for the individual pieces of mail are applied in numerical sequence as received at FBIHQ after the file has been established.

PREPARING INDEX CARDS

The next step in the mail processing function is the preparation of index cards on the subject matter that has been marked for indexing. The mail is then forwarded to the appropriate officials and supervisors for proper handling. After they have taken necessary action, the mail is initialed and then forwarded for filing.

FILING MAIL

Prior to being filed, the mail is checked to determine if it has been properly processed and initialed, which indicates that all necessary action has been taken.

FIELD OFFICE RECORDS

Files kept in FBI field offices are structured in much the same manner as those at FBIHQ. Mail received by a field office is opened in the Chief Clerk's Office where it is searched through the field office indices to determine if it should be placed in an existing file.

If there is an existing file that pertains to the subject matter of the mail, the file number is written on the mail and it is forwarded to a supervisor for review and appropriate routing to the employee responsible for taking the required action. If there is not an existing file on the subject matter being searched, relevant index references will be listed on the mail which is then forwarded to a supervisor who will designate the classification for the mail, indicate action to be taken as well as name of the employee whom he wants to handle the matter. The mail is then forwarded to the Chief Clerk's Office where a file will be opened as necessary. It is given the next sequential case number within the appropriate classification. The original copy is sent to the employee designated to handle the

matter and the other copy is maintained in the office file. The Chief Clerk's Office also prepares appropriate index cards and case assignment cards.

DISPOSITION OF RECORDS

The disposition of FBI records is controlled by regulations of the National Archives and Records Service (NARS), General Services Administration.

Title 44, Chapter 33, Section 3301, defines record and nonrecord material and Section 3302 directs the Administrator of General Services to promulgate regulations regarding procedures for destruction and standards for reproduction of records.

Approval for the destruction of record material is sought on the basis that the records lack investigative, intelligence, historical, or research value; that the destruction would not affect current or future operations of the Bureau; or that microphotographic copies are satisfactory duplicates of the original material, as is the case when recorded matter is microfilmed prior to destruction. Requests are forwarded

to the National Archivist through the Department of Justice. If the National Archivist approves our request, we will proceed accordingly.

Additional guidelines for maintenance and destruction of records are included in The Code of Federal Regulations, Title 41, Chapter 101, entitled "Federal Property Management Regulations" which is issued by the General Services Administration. Periodic revisions are received to update established programs or to initiate or regulate programs relating to advanced technology.

In connection with these regulations, the FBI has followed an active destruction program to recover valuable space and remove from our files worthless and obsolete material. As of January, 1975, we have destroyed over 1,021,000 files and microfilmed over 1,700,000 files wherein the original material has been destroyed. However, in accordance with a request in a letter to the FBI Director dated January 27, 1975, from the joint U. S. Senate leadership, all previously approved record destruction programs have been temporarily suspended.

Prior to the receipt of this request from Senators Mansfield and Scott, destruction of records at FBIHQ, basically, has been limited to that material which has been clearly determined to have insufficient evidentiary, research, investigative or intelligence value or potential for future use to warrant further retention. These include but are not limited to files on many investigations where, for example, the subjects were never identified.

Criminal files over 10 years old are permitted to be microfilmed and the original material destroyed after it has been determined that the microphotographic copies are satisfactory duplicates of the original material.

Field office files may be destroyed in 5 years in an auxiliary (or lead) office, and in 10 years in the office directing the investigation (office of origin) providing they are of no continuing value.

DIRECTOR HOOVER'S "OFFICIAL AND CONFIDENTIAL"(OC) FILES

The "Official and Confidential" (OC) files date back to the 1920's and consist of a large variety of items, some of which former Director Hoover apparently did not desire to be included in the Bureau's general files and others which were merely copies of documents maintained in the Bureau's general file holdings, perhaps so that he might have ready reference to them. In 1941, Mr. Hoover reorganized these confidential file sources in his office suite and directed that certain of the material be transferred to the Administrative Files or to the National Defense Division, as the Intelligence Division was then known. There is attached as Exhibit C, a copy of a memorandum dated October 1, 1941, prepared by Mr. Hoover wherein he expressed his desires concerning the manner in, and purpose for which he desired the "Official and Confidential" files to be maintained.

The matters retained in Director Hoover's office suite included but were not restricted to confidential items, some of a personal nature, and again others which

were duplicated in the Bureau's general file holdings. The 164 file folders located in Mr. Hoover's office suite following his death consisted of policy matters, administrative matters, reference material, internal personnel matters, sensitive source information, information concerning certain prominent persons, and other information apparently of particular interest to Mr. Hoover. I will not take more of the Committee's time with a more detailed description of these files but refer the Committee to the testimony of the Honorable Edward H. Levi, Attorney General of the United States, before the House Judiciary Committee's Subcommittee on Civil Rights and Constitutional Rights on February 27, 1975.

Subsequently, these "Official and Confidential" files were transferred to the Special File Room of the Files and Communications Division at FBI Headquarters where they were integrated into our general file holdings accessible through our general index system. The Special File Room contains records of extraordinary sensitivity, access to which is extremely limited.

"DO NOT FILE" LABEL ON DOCUMENTS

Interest has been expressed by the Committee concerning the practice of labeling certain documents "Do Not File" and I would, therefore, now like to discuss how this practice evolved.

In a memorandum prepared for distribution to Bureau Headquarters Officials and Supervisors dated April 11, 1940, former Director Hoover instructed that "In the future, memoranda written merely for informative purposes, which need not be retained for permanent filing, should be prepared without abstracts and without carbon copies on a blue inter-office memorandum form....." (see Exhibit D).

In a memorandum over his signature dated November 15, 1941, Mr. Hoover took cognizance of the rapid expansion of the Bureau and the increased necessity to generate memoranda for informative and administrative purposes only, which memoranda frequently were of no permanent value. In instructing officials to carefully distinguish between those documents which should become part of the Bureau's permanent file holdings and those which serve

only a temporary purpose, Mr. Hoover stated "The only possible standard is: 'Will the information set forth in the memorandum be of permanent value to the Bureau warranting the handling of it in the files?'" (see Exhibit E).

Instructions regarding the preparation of memoranda at FBI Headquarters were incorporated into a manual entitled "General Instructions for Bureau Supervisors" on March 1, 1942. These instructions further develop the color coding of Bureau Headquarters memoranda and stated that memoranda intended to be made a permanent part of the Bureau files should be prepared on white paper; memoranda prepared solely for the benefit of the Director, which eventually would be returned to the dictator for destruction or for retention in the Director's Office, should be prepared on blue paper; and memoranda prepared for temporary usage for administrative purposes such as ordering supplies should be placed on pink paper. (see Exhibit F).

A memorandum dated January 16, 1943, from former Associate Director Clyde Tolson (in his capacity as

Chairman of the Executives' Conference) to the Director reflects that consideration was given to discontinuing the use of the pink and blue memoranda. However, the Conference unanimously recommended to the Director that while the pink form should be discontinued that "... all memoranda prepared in every section which need not go to file be prepared on blue memorandum forms..." (see Exhibit G).

In a memorandum To All Investigative Employees dated March 9, 1943, Mr. Hoover wrote: "In order to eliminate as much clerical and paper work as possible the following procedures are being adopted which will obviate the necessity of filing certain communications at the Seat of Government...." There then followed in this memorandum specific instructions with regard to the manner in which certain types of communications of only temporary value should be prepared. The concluding paragraph of this memorandum to field offices stated, "In order that the practice may be uniform throughout the service a supply of forms will be furnished to the Field bearing the notation at the bottom of the page 'Informative Data - Not to be Filed'" (see Exhibit H).

In a separate memorandum, also dated March 9, 1943, to FBI Headquarters Officials and Supervisors captioned "Cutting Down Paper Work," Mr. Hoover stated that "... certain paper work can be held to a minimum and then, after it serves its purpose, it need not be sent to Files...." There then followed specific instructions with regard to the practice of preparing memoranda of permanent value on white paper and memoranda of only temporary value on blue paper, the latter not being intended for filing. That memorandum concluded with an exhortation from Mr. Hoover to his Headquarters supervisors to be on the alert for other types of communications not having permanent value which, therefore, should not be made part of our permanent file holdings (see Exhibit I).

By memorandum of November 9, 1944, captioned "Pink Memorandum," Mr. Hoover instructed that in the future memoranda which were not to be filed but which were intended for informative purposes only should thereafter be prepared on pink paper (see Exhibit J). This change was occasioned by policy promulgated in the

Executive Branch requiring the utilization of blue paper for interdepartmental correspondence.

Until immediately prior to February 20, 1950, instructions concerning the use of pink memoranda for information of only temporary value were contained in the Manual for Bureau Officials and Supervisors. On that date instructions were issued and included in that Manual that all memoranda in the future should be prepared on white paper (see Exhibit K).

In our current review of old instructions we were unable to find any instructions more recent than these dealing with the practice of using blue or pink paper for memoranda the contents of which, in the judgment of the author, were of only temporary value and, therefore, not intended for retention in our permanent file holdings. I should like to point out that the pink and blue paper used were officially authorized forms upon which were printed "This Memorandum is for Administrative Purposes - To Be Destroyed After Action is Taken and Not Sent to Files" or "Informative Memorandum - Not to be Sent to Files Section."

While there is not currently promulgated any formal regulations with regard to the labeling of memoranda "Do Not File," the practice of preparing memoranda not intended for permanent retention continues at Bureau Headquarters as it does in business and Government offices universally including, I would assume, in the offices of the members of this Committee. This is clearly a good paper management device intended to limit or control insofar as possible the ever-increasing volume of records.

I hope I have established to the satisfaction of the Committee from the foregoing discourse that there was absolutely nothing sinister or nefarious either in the original concept or in the subsequent practice of the preparation of memoranda not intended for filing.

EXHIBIT A

CLASSIFICATIONS

1. Training Schools; National Academy Matters; F.B.I. National Academy Applicants
2. Neutrality Matters
3. Overthrow or Destruction of the Government
4. National Firearms Act; Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms
5. Income Tax
6. Interstate Transportation of Strike Breakers
7. Kidnaping
8. Migratory Bird Act
9. Extortion
10. Red Cross Act
11. Tax (Other than income)
12. Narcotics
14. Sedition
15. Theft from Interstate Shipment
16. Violation Federal Injunction - Obsolete
17. Veterans' Administration Matters
18. May Act
19. Censorship Matters (obsolete)
21. Food and Drugs
23. Prohibition
24. Profiteering (obsolete)
25. Selective Service Act; Selective Training and Service Act of
26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft
27. Patent Matter
28. Copyright Matter
29. Bank Fraud and Embezzlement
31. White Slave Traffic Act
32. Identification (Fingerprint Matters)
33. Uniform Crime Reporting
35. Civil Service
36. Mail Fraud
39. Falsely Claiming Citizenship
40. Passport and Visa Matter
41. Explosive (obsolete)
42. Deserter; Deserter - Harboring
43. Illegal Wearing of Uniform; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacture, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Sale, or Use of Military Cremation Urn; Illegal Manufacture, Possession or Wearing of Civil Defense Insignia; Miscellaneous- Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous - Falsely Making or Forging

Naval, Military, or Official Pass; Miscellaneous - Forging or Counterfeiting Seal of Department or Agency of the U.S.; Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of "Smokey Bear" Symbol.

44. Civil Rights; Civil Rights-Election Laws; Civil Rights-Election Laws-Voting Rights Act, 1965
45. Crime on the High Seas (Includes stowaways on boats and aircraft)
46. Fraud Against the Government: Anti-Kickback Statute; Dependents Assistance Act of 1950; False Claims - (Civil); Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act - (Criminal); Renegotiation Act - (Civil) Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act
47. Impersonation
48. Postal Violations (Except Mail Fraud)
49. National Bankruptcy Act
50. Involuntary Servitude and Slavery
51. Jury Panel Investigations
52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property
54. Customs Laws and Smuggling
55. Counterfeiting
56. Election Laws
57. War Labor Disputes Act (Obsolete)
58. Bribery; Conflict of Interest
60. Anti-Trust
61. Treason or Misprision of Treason
62. Miscellaneous - including Administrative Inquiry (formerly Misconduct in Office)
63. Miscellaneous - Non-Subversive - including:
 - Black Market in Railroad Tickets (obsolete)
 - Civil Aeronautics Act (Obsolete)
 - Eight-Hour-Day Law
 - Federal Judiciary Investigations
 - Federal Juvenile Delinquency Act
 - Kickback Racket Act
 - Lands Division Matter (Condemnation Proceedings)
 - Miscellaneous - Civil Suit
 - Miscellaneous - O.P.A. Violations (Civil) (Obsolete)
 - Miscellaneous - Wage and Hour Law (Fair Labor Standards Act of 1938)
 - Soldiers and Sailors Civil Relief Act of 1940

- Tariff Act of 1930
- Top Hoodlum Coverage
- Unreported Interstate Shipment of Cigarettes
- Federal Cigarette Labeling and Advertising Act
- 64. Foreign Miscellaneous
- 65. Espionage
- 66. Administrative Matters
- 67. Personnel Matters
- 68. Alaskan Matters (Obsolete)
- 69. Contempt of Court
- 70. Crime on Indian Reservation; Inducing Conveyance of Indian Trust Land; Crime on Government Reservation; Embezzlement or Theft of Indian Property
- 71. Bills of Lading Act
- 72. Obstruction of Justice; Obstruction of Court Orders; Obstruction of Criminal Investigations
- 73. Application for Pardon After Completion of Sentence and Application for Executive Clemency
- 74. Perjury
- 75. Bondsmen and Sureties
- 76. Escaped Federal Prisoner; Escape and Rescue; Probation Violator; Parole Violator; Mandatory Release Violator
- 77. Applicants (Special Inquiry, Departmental and Other Government Agencies except those having special classifications)
- 78. Illegal Use of Government Transportation Requests
- 79. Missing Persons
- 80. Laboratory Research Matters
- 81. Gold Hoarding (Obsolete)
- 82. War risk Insurance (National Service Life Insurance) (Obsolete)
- 83. Court of Claims
- 84. Reconstruction Finance Corporation Act (Obsolete)
- 85. Home Owner Loan Corporation (Obsolete)
- 86. Federal Lending and Insurance Agencies
- 87. Interstate Transportation of Stolen Property (Fraud by wire, Radio, or Television)
- 88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony
- 89. Assaulting or Killing A Federal Officer; Congressional Assassination Statute
- 90. Irregularities in Federal Penal Institutions
- 91. Bank Burglary; Bank Larceny; Bank Robbery
- 92. Anti-Racketeering; A.R.- Lea Act; A.R.- Interference with Government Communications System; A.R.- HOBBS Act
- 93. Ascertaining Financial Ability
- 94. Research Matters
- 95. Laboratory Cases (Examination of Evidence in Other Than Bureau Cases)

- 96. Alien Applicants (Obsolete)
- 97. Registration Act
- 98. Sabotage
- 99. Plant Survey (Obsolete)
- 100. Subversive Matter (Individuals); Internal Security (Organizations)
- 101. Hatch Act (Obsolete)
- 102. Voorhis Act
- 103. Interstate Transportation of Stolen Cattle
- 104. Servicemen's Dependents Allowance Act of 1942 (Obsolete)
- 105. Internal Security (Nationalistic Tendency - Foreign Intelligence) (Individuals and Organizations - by country.)
- 106. Alien Enemy Control; Escaped Prisoners of War and Internees (Obsolete)
- 107. Denaturalization Proceedings (Obsolete)
- 108. Foreign Travel Control (Obsolete)
- 109. Foreign Political Matters
- 110. Foreign Economic Matters
- 111. Foreign Social Conditions
- 112. Foreign Funds
- 113. Foreign Military and Naval Matters
- 114. Alien Property Custodian Matter (Obsolete)
- 115. Bond Default; Bail Jumper
- 116. Atomic Energy Act-Applicant; Atomic Energy Act-Employee
- 117. Atomic Energy Act-Criminal
- 118. Applicant - Central Intelligence Agency (Obsolete)
- 119. Federal Regulation of Lobbying Act
- 120. Federal Tort Claims Act
- 121. Loyalty of Government Employees (Obsolete)
- 122. Labor Management Relations Act, 1947
- 123. Special Inquiry-State Department - Voice of America (U. S. Information Center) (Public Law 402 - 80th Congress)
- 124. European Recovery Program (International Cooperation Administration) formerly Foreign Operations Administration, Mutual Security Agency, Economic Cooperation Administration or E.R.P., European Recovery Program; A.I.D. - Agency for International Development (Obsolete)
- 125. Railway Labor Act; Railway Labor Act - Employer's Liability Act
- 126. National Security Resources Board - Special Inquiry (Obsolete)
- 127. Sensitive Positions in the U. S. Government - Public Law 266 (Obsolete)

- 128. International Development Program (Foreign Operations Administration)
- 129. Evacuation Claims (Obsolete)
- 130. Special Inquiry - Armed Forces Security Act (Obsolete)
- 131. Admiralty Matter
- 132. Special Inquiry - Office of Defense Mobilization (Obsolete)
- 133. National Science Foundation Act - Applicant (Obsolete)
- 134. Security Informants
- 135. PROSAB (Protection of Strategic Air Command Bases of U.S.A. Air Force)
- 136. American Legion Contact (Obsolete)
- 137. Criminal Informants
- 138. Loyalty of Employees of the United Nations and Other Public International Organizations
- 139. Interception of communications (Formerly Unauthorized Publication or Use of Communications)
- 140. Security of Government Employees; S.G.E. - Fraud Against the Government
- 141. False Entries in Records of Interstate Carriers
- 142. Illegal Use of Railroad Pass
- 143. Interstate Transportation of Gambling Devices
- 144. Interstate Transportation of Lottery Tickets
- 145. Interstate Transportation of Obscene Matter; Broadcasting of Obscene Language
- 146. Interstate Transportation of Prison Made Goods
- 147. Federal Housing Administration Matters
- 148. Interstate Transportation of Fireworks
- 149. Destruction of Aircraft or Motor Vehicles
- 151. (Referral cases received from CSC under P. L. 298)
 - Agency for International Development
 - Atomic Energy Commission (Civil Service Commission)
 - National Aeronautics and Space Administration
 - National Science Foundation
 - Peace Corps; Action
 - U.S. Arms Control and Disarmament Agency
 - World Health Organization
 - International Labor Organization
 - U.S. Information Agency
- 152. Switchblade Knife Act
- 153. Automobile Information Disclosure Act
- 154. Interstate Transportation of Unsafe Refrigerators
- 155. National Aeronautics and Space Act of 1958
- 156. Welfare and Pension Plans Disclosure Act

157. Extremist Matters; Civil Unrest
158. Labor-Management Reporting and Disclosure Act of 1959
(Security Matter) (Obsolete)
159. Labor-Management Reporting and Disclosure Act of 1959
(Investigative Matter)
160. Federal Train Wreck Statute
161. Special Inquiries for White House, Congressional Committees
and Other Government Agencies
162. Interstate Gambling Activities
163. Foreign Police Cooperation
164. Crime Aboard Aircraft
165. Interstate Transmission of Wagering Information
166. Interstate Transportation in Aid of Racketeering
167. Destruction of Interstate Property
168. Interstate Transportation of Wagering Paraphernalia
169. Hydraulic Brake Fluid Act (Obsolete)
170. Extremist Informants
171. Motor Vehicle Seat Belt Act (Obsolete)
172. Sports Bribery
173. Public Accommodations-Civil Rights Act of 1964
Public Facilities-Civil Rights Act of 1964
Public Education-Civil rights act of 1964
Employment-Civil Rights Act of 1964
174. Explosives and Incendiary Devices; Bomb Threats
(Formerly Bombing Matters; Bombing Matters-Threats)
175. Assaulting the President (or Vice-President) of the
United States
176. Antiriot Laws
177. Discrimination in Housing
178. Interstate Obscene or Harassing Telephone Calls
179. Extortionate Credit Transactions
180. Desecration of the Flag
181. Consumer Credit Protection Act
182. Illegal Gambling Business; Illegal Gambling
Business - Obstruction; Illegal Gambling Business -
Forfeiture
183. Racketeer Influenced and Corrupt Organizations
184. Police Killings
185. Protection of Foreign Officials and Official Guests of
the United States
186. Real Estate Settlement Procedures Act of 1974

RECORDS SECTION -- FLOW CHART

FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

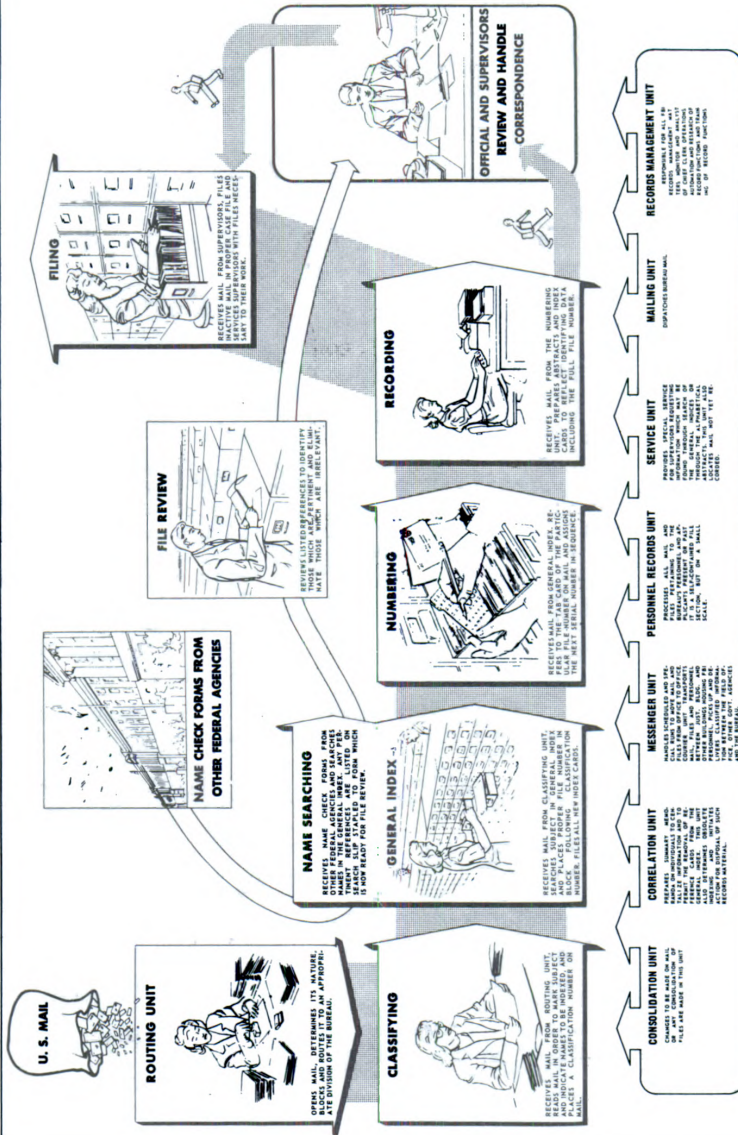


EXHIBIT C

FEDERAL BUREAU OF INVESTIGATION

Date October 1, 1941

MEMORANDUM

As you are no doubt aware, there is presently maintained in the office of Miss Gandy a confidential file in which are kept various and sundry items believed inadvisable to be included in the general files of the Bureau. Among this material are certain items, such as confidential information on Communist infiltration into the Department of Justice, etc., which, if they are to be of value, must be properly indexed and filed. This material is not voluminous and it is believed that if it is properly assembled, the maintenance of the same will require very little work. It is my desire that a confidential file be maintained in the office of Mr. Nichols, under his direction and supervision, and hereafter any material which should be placed in this file will be forwarded to Mr. Nichols for his attention.

It is further my desire that the confidential file in Miss Gandy's Office be restricted to confidential items of a more or less personal nature of the Director's and items which I might have occasion to call for from time to time, such as memoranda to the Department on the Dies Committee, etc.

At this time there are also maintained in the confidential file various and sundry confidential memoranda on undercover and SIS employees; name, number and brief biography of confidential informants; list of technical surveillances and history of each; list of surveillances maintained on diplomatic representatives at the sanction of the State Department, and other similar items. As far as this material is concerned, there appears to be a duplication of work performed in the National Defense Division, and it is not believed necessary to maintain duplicate memoranda on such items. This material should, therefore, be transferred to the National Defense Division where I desire that it be maintained in an up to date manner and immediately available to me should I desire the same.

(INFORMATIVE MEMORANDUM - NOT TO BE SENT TO FILES SECTION)

Discretion should be used by the various Assistant Directors in designating material to be included in the confidential file which will be maintained in Mr. Nichols' Office. It is not desired that this file become congested with material which rightly belongs in the general Administrative Files of the Bureau.

Very truly yours,

J. Edgar Hoover

John Edgar Hoover
Director

JOHN EDGAR HOOVER
DIRECTOR

EXHIBIT D

Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.

April 11, 1940

MEMORANDUM

In the future, memoranda written merely for informative purposes, which need not be retained for permanent filing, should be prepared without abstracts and without carbon copies on a blue inter-office memorandum form similar to the one attached hereto. An appropriate supply of this form may be secured from the Supply Division. It will be understood that in the event any of these blue inter-office memoranda reach the Files Section, they will not be filed but will be returned to Mr. Tracy in the Director's Office for appropriate disposition.

Very truly yours

J. E. Hoover
John Edgar Hoover
Director

Enclosure

FEDERAL BUREAU OF INVESTIGATION

Date _____

MEMORANDUM FOR THE DIRECTOR

Mr. Tolson	_____
Mr. Nathan	_____
Mr. E. A. Tamm	_____
Mr. Clegg	_____
Mr. Glavin	_____
Mr. Coffey	_____
Mr. Ladd	_____
Mr. Nichols	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. Carson	_____
Mr. Egan	_____
Mr. Gurnea	_____
Mr. Hendon	_____
Mr. Jones	_____
Mr. Quinn Tamm	_____
Mr. Nease	_____
Mr. Gandy	_____

JOHN EDGAR HOOVER
DIRECTOR



EXHIBIT E

Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.

11-15-41
0

Dear Sir:

With the rapid expansion of the Bureau, it has been necessary more and more to resort to the use of memoranda for informative and administrative purposes in advising various divisions and various sections in divisions of action desired, which have no permanent value in the Bureau's files.

As you know, memoranda purely for informative purposes have been prepared for some time on blue paper. It is believed that this type of memorandum can be more frequently used in the future if judgment and discretion are exercised. The only possible standard is: "Will the information set forth in the memorandum be of permanent value to the Bureau warranting the handling of it in the files?"

Many memoranda are written daily purely for administrative purposes such as requesting the Chief Clerk's Office to order a new typewriter, to repair a typewriter, to fix a desk drawer, or ordering supplies. Hereafter, such memoranda should be prepared on the attached pink form which will be destroyed after the necessary action has been taken. This type of memorandum should be used in the following instances:

Reporting conferences of various sections.

Reporting telephone conversations with the field when the information is primarily for the advantage of an official and of a current nature, having no permanent value for the Bureau's files.

Memoranda advising that employees will depart on transfer at some future date.

Memoranda advising of the change of address and telephone number.

Memoranda requesting supplies.

Memoranda returning building passes or other property, the sole purpose of which is to clear the inventory maintained in the Chief Clerk's Office.

Memoranda of supervisors advising the following of matters in the field. In these instances, the supervisors could well make a pencil tickler and when the necessary action has been taken, the tickler could be destroyed.

There are, of course, many other types of memoranda written from time to time which have no place in the Bureau's files and are of no permanent future value. In each instance, the information recorded in the memoranda should be evaluated and all officials, supervisors, and employees of the Bureau should lend every possible assistance to keep the files from being cluttered with unnecessary memoranda and communications.

Very truly yours,

J. E. Hoover
John Edgar Hoover
Director

Enclosure

EXHIBIT F

FEDERAL BUREAU OF INVESTIGATION

GENERAL INSTRUCTIONS

FOR

BUREAU SUPERVISORS

Issued MAR 1 1942

John Edgar Hoover
Director

13. MEMORANDA

The preparation of memoranda by Bureau supervisors is a very important and often abused function of the Bureau. Therefore it is incumbent upon supervisors to prepare memoranda in proper form, on proper paper, and in as succinct and understandable manner as possible.

There are three types of paper used in the Bureau at the present time; e.g., white, blue and pink, for the preparation of memoranda.

1. White--All memoranda prepared by supervisors which are to be made a permanent part of the Bureau files should be prepared on the white memorandum form.

2. Blue--Memoranda prepared solely for the benefit of the Director which will possibly be seen by the Director and other officials and eventually be returned to the dictator to be destroyed or retained in the Director's office, should be prepared on the blue memorandum form.

3. Pink--If the memorandum is prepared merely for temporary usage such as ordering supplies, requesting work to be done through the Chief Clerk's Office, then the pink form is to be used.

All pages of memoranda must be numbered.

All memoranda must be dated.

Copies--Memoranda prepared on the white form must have an original, one thin white for the tickler file and one yellow for the Bureau file. Then for each individual or case mentioned in a memorandum an additional yellow must be prepared. No copies are necessary on blue and pink memoranda.

DIRECTOR

EXHIBIT G

CC-287



**Federal Bureau of Investigation
United States Department of Justice
Washington, D. C.**

January 16, 1943

SJT:jm

MEMORANDUM FOR THE DIRECTOR

The Executive Conference consisting of Messrs. Tolson, , considered a suggestion of Mr. Nichols that we discontinue using the blue and pink memo forms and instead all memoranda be prepared on white paper and that a line be drawn through them in the event it is not deemed necessary by the writer of the memorandum or an Assistant Director that the memorandum go to file.

The Conference was of the opinion that it was advisable that either the blue or pink memorandum form continue to be used in order that there might be no error as to what should and what should not go to file.

The Conference unanimously recommends that the pink form be discontinued and that all memoranda prepared in every section which need not go to file be prepared on blue memorandum forms. If approved by the Director, the necessary instructions will be issued.

Respectfully,
For the Conference


Clyde Tolson, Chairman

EXHIBIT H

March 9, 1943

TO ALL INVESTIGATIVE EMPLOYEES:

In order to eliminate as much clerical and paper work as possible the following procedures are being adopted which will obviate the necessity of filing certain communications at the Seat of Government:

1. Hereafter letters from the Field advising that the Special Agent in Charge or a Bureau Agent has accepted an invitation to address a certain specific group will be routed to the appropriate section in the Bureau where a notation will be made on the speaking engagement cards after which the communication will then be destroyed. Copies of such communications, of course, should be kept in the local Field offices if they are of any permanent value to the local office.
2. Letters from the Field requisitioning property upon receipt in the Files Section shall be routed to the appropriate division in the Bureau. After the necessary action is taken the letters will then be destroyed. Copies of such letters can be filed in a folder with the administrative files and torn up after the Field has received the material requested.
3. Letters from the Field advising that certain Bureau property has been collected and is being returned to the Bureau will be destroyed after the appropriate notation has been made on the inventory card. A copy of such should be maintained in the Field office file.
4. Letters from the Field to the Bureau pertaining to the Agents' Technical Training Conferences, Firearms Training Conferences, Clerical Conferences, New Agents' Weekly Conferences, advising of future conferences for Bureau employees and the monthly conferences of radio employees hereafter will not be put on record or maintained in the Bureau's Files Section but will either be destroyed after review in the Bureau or kept in folders for a limited period of time.

RECORDED INDEXED

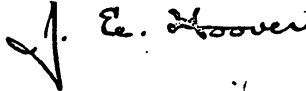
COMMUNICATIONS SECTION

The Field should immediately discontinue the practice of writing a cover letter transmitting an article, editorial or news item unless it is necessary to explain to the Bureau some portion therein. Copies of such articles, clippings, and the like, will merely be routed to the Bureau where they will be reviewed by the appropriate officials.

6. Letters from the Field advising of change in law enforcement officials after being routed to the appropriate division in the Bureau and the necessary action taken will be destroyed.

In order that the practice may be uniform throughout the service a supply of forms will be furnished to the Field bearing the notation at the bottom of the page "Informative Data - Not to be Filed." Whenever a communication is prepared on this form which covers any of the situations above-mentioned, only one copy of the communication need be furnished to the Bureau without making abstracts. Such communications should, of course, be signed by the Special Agent in Charge.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. E. Hoover". The signature is written in a cursive style with a large, stylized initial "J".

John Edgar Hoover
Director

EXHIBIT I

March 9, 1943

TO THE DIRECTOR, ASSISTANTS TO THE DIRECTOR, ASSISTANT DIRECTORS,
INSPECTORS AND SUPERVISORS:

RE: CUTTING DOWN PAPER WORK

I desire that the following policies and procedures be immediately placed into effect in order to streamline and expedite our various functions. A very careful survey has been made and the Bureau is now of the opinion that certain paper work can be held to a minimum and then, after it serves its purpose, it need not be sent to Files. Accordingly, the following instructions are being issued:

1. As a general policy, memoranda should be prepared on blue paper unless the subject matter is of such a nature as to be of permanent value in the Bureau's files. The dictator, if he believes that the contents of a memorandum should go to Files, should indicate to the stenographer or typist that it be prepared on white. In the event it is prepared on white then, after the memorandum is reviewed by a Unit Chief, Assistant Director or Assistant to the Director and these officials take a contrary view, they should draw a pencil line through the memorandum after which it should be handled exactly as if it had been prepared on blue for informative purposes.

- I have no objection to memoranda with a pencil line drawn across the first page being forwarded to me and I intend to exercise, likewise, the prerogative of drawing a pencil line through memoranda which I feel have no permanent value in the Bureau's files.

- The following types of informative memoranda are illustrative of memoranda which should be placed on blue and which have no permanent value in the Bureau's files:

RECORDED & INDEXED

(a) Setting forth the circumstances of a telephone conversation with a Special Agent in Charge or another Field representative on certain items which have appeared in the papers. In every instance where the Special Agent in Charge advises of items in the papers the Agent in Charge should be advised to send the clippings to the Bureau and these clippings can then be filed.

(b) Memoranda setting forth telephone conversations with the Field wherein the Field makes some routine inquiry which requires only a routine answer, such as whether an Agent is still in the Service, whether it would be satisfactory to remain at a certain point for another day to make contact, make a speech and so forth.

(c) Memoranda prepared by an Assistant Director addressed to his unit heads dealing with matters of interest only to his division.

(d) Informative memoranda explaining why an outgoing communication has been prepared or why a memorandum is being sent to the Department when the reason set forth comes from the file review. In instances where a memorandum is sent prepared for the Department or an outgoing communication is prepared based upon a telephone call and if the communication sets forth the circumstances of the call the dictator of the communication should dictate a brief explanation for the communication which can be typed on the yellow.

(e) Memoranda advising that a case has been continued and an arraignment will be held, that an arrest was made or of development in a case which would be confirmed by the Field by letter, teletype or report.

(f) Informative memoranda to the Director based upon teletypes reporting the developments in a case. The teletypes obviously will go to Files and the memoranda are purely for informative purposes even though additional details from the Field explaining the details are set forth therein. In instances where only the contents of an incoming teletype or letter are to be called to the Director's attention that portion should be underscored and routed to the Director's Office.

(g) On calls from the Field requesting authorization for carrying on certain activities which are confirmed by teletype or letter. No memorandum is necessary but a statement should be typed on the yellow referring to the telephone call.

(h) Memoranda prepared by Bureau employees or unit or division heads requesting assignment of property or returning property of any type. In such cases the Chief Clerk's Office maintains an inventory card and when the communication is received a notation is made on the inventory card. When such memoranda are prepared on blue, after the notation has been made on the inventory card in the Chief Clerk's Office that card will be presumed to be a record of the transaction.

In the event a memorandum is prepared on blue by an official and another official of the Bureau later believes that the content should be placed on record and files, the Files Section is authorized to file such memoranda when the word, "File," with the official's initials appears in the lower right hand corner of the ~~the~~ blue memoranda.

2. Letters of a purely administrative nature from the Field which have no permanent value whatsoever, after being acted upon, shall be destroyed by the Supervisor. Such letters will be routed from the Files Section merely to the appropriate division. A serial number, of course, will not be placed thereon. The following are specific types of letters to be covered by this provision:

(a) Letters from the Field ~~advising~~ that the Special Agent in Charge or an Agent has accepted an invitation to address a certain group. In such instances, the Crime Records Section maintains a complete set of speaking engagement cards and will constitute hereafter a permanent part of the Bureau's records. When such letters are received in the Bureau they will be routed to the Crime Records Section. After the data has been recorded the communication will be routed to the Supervisor in charge who will then tear up the letter. In the event there is anything in the letter which is believed to be of permanent value to the Bureau the Supervisor will then send the letter to Files with a request that it be filed.

(b) Letters from the Field ~~requisitioning~~ property such as manuals, stapling machines, bullet proof shields and other items. Such communications will be routed by the Files Section to Division Three without detaching abstracts, serializing or recording the communication. After the order is filled, a notation shall be made by the employee taking the action after which the communication shall be referred to the Supervisor who will destroy the letter, after, of course, the necessary notations have been made on the inventory cards.

(c) Letters from the Field advising that certain Bureau property has been collected and returned. Such communications will be routed by the Files Section to Division Three where a check will be made against the inventory card. The clerk will make the necessary notation on the letter and the letter will then be destroyed by the Supervisor. X

(d) Letters from the Field with reference to Agents' technical training conferences, firearms training conferences, clerical conferences, new Agents' weekly conferences and Agents' Quarterly Conferences will not be recorded or serialized by the Files Section but merely sent by them to Division Two. After these communications are reviewed and the necessary notations made the communications will be destroyed by the Supervisor. X

(e) Communications from the Field advising of the scheduling of conferences will be routed to Division Two without being serial-

ized or recorded. After being reviewed and the necessary notations are made they will be placed in a folder in Division Two where they can be kept for a year in order that a review of the year's program can be made after which such communications will be destroyed.

(f) Letters from the Field transmitting articles or editorials should not be written and when they are written they shall be routed to the appropriate officials by the Files Section; unless there is some specific reason after the Supervisor reviews these communications they can be destroyed. However, the article, if of permanent value to the Bureau's files, shall be placed on record.

(g) Letters from the Field advising the Bureau of changes in law enforcement officials in order that the Bureau's mailing list may be kept up to date shall be routed to the Crime Records Section, Identification Division, Mr. Harbo's Section and Mechanical Section and then back to the Crime Records Section. If the necessary notations have been made upon return to the Crime Records Section it will be the responsibility of Mr. McGuire to see that the appropriate action has been taken after which the communication shall be destroyed.

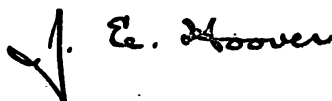
(h) Letters from the Field pertaining to radio operators' monthly conferences shall be routed without being recorded to Division Four, Division Two and Communications Section. After these letters have been reviewed they shall be destroyed unless they contain data of permanent value in the Bureau's Files.

(i) At the present time it is the practice not to make yellows of routine follow-up letters but merely to make a notation on the last serial in the file. Hereafter, follow-up replies from the Field, when received in the Files Section will be routed but will not be serialized or recorded. Upon receipt by the appropriate Supervisor and after review of the communication the Supervisor can use the incoming letter from the Field as a tickler until the report comes in or in the event the letter is of such a nature that it would constitute a matter of permanent value to the Bureau the Supervisor can then initial the letter writing "File" in the lower right hand corner of the communication. In such instances the Files Section will merely place the letter in the appropriate file without placing it on record.

The Field is being advised in detail regarding the foregoing communications which emanate from the Field offices.

I desire that every Supervisor be on the alert for other types of communications which do not have any permanent value in the Bureau's Files Section and in each instance a memorandum of suggestion should be made through the appropriate channels.

Very truly yours,



John Edgar Hoover
Director

EXHIBIT J

November 9, 1944

MEMO

RE: PINK MEMORANDUM

In the future in preparing memoranda which are not to be filed, but which are for informative purposes only, you are instructed to prepare such memoranda on pink paper, a supply of which has been furnished to each of the divisional offices. The Bureau does not wish to have such confidential memoranda prepared on the blue paper in the future.

Very truly yours,

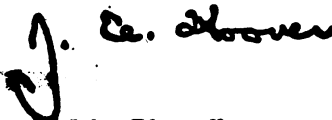
A handwritten signature in dark ink, appearing to read "J. E. Hoover". The signature is stylized, with a large, looped initial "J" and a cursive "E".John Edgar Hoover
Director

EXHIBIT K

16
17. MEMORANDA

All memoranda prepared by Supervisors should be prepared on the white memorandum form.

All pages of memoranda must be numbered.

All memoranda must be dated. Memoranda prepared at the Seat of Government are to be dictated promptly and should be dated as of the date of transcription. It is the responsibility of the individual dictating

~~7th~~
~~2-20-90~~

[Whereupon, at 4 :30 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

A P P E N D I X

OTHER MATERIAL AND CORRESPONDENCE SUBMITTED FOR THE RECORD

LIST OF FILES BY FILE TITLE, FOUND IN THE "OC" FILES
WHICH WERE PREVIOUSLY FILED IN FORMER FBI DIRECTOR
HOOVER'S PERSONAL FILES

1. AGREEMENT BETWEEN THE FBI AND SECRET SERVICE CON-
CERNING PRESIDENTIAL PROTECTION ~~PF~~
10/20/71 per JEH OC
2. BENTLEY, ELIZABETH-TESTIMONY ~~PF~~
per JEH 11/1/71 OC
3. BLACK BAG JOBS ~~PF~~
per JEH 11/4/71 OC
4. BLACK, FRED B. Jr. ~~PF~~
per JEH 11/4/71 OC
5. BLACK, FRED (#2) ~~PF~~
per JEH 11/4/71 OC /
6. BOMBING AT THE U.S. CAPITOL ~~PF~~
OC
(the initials OC were typed
under the PF, but there was no indication
that this was done pursuant to Mr. Hoover's
instructions)
7. BUREAU RECORDING INSTRUMENTS OC

(this file had a new file label placed over
another label which still had the initials
PF on it)
8. BUTTS, E.R. "OC" typed over the letters PF
(there were no notations on this file to
indicate that it was placed in the OC files
pursuant to Mr. Hoover's instructions)

LAW OFFICES

SUISMAN, SHAPIRO, WOOL & BRENNAN, P. C.

1028 POQUONNOCK ROAD

GROTON, CONNECTICUT 06340

TELEPHONE (203) 446-8080

November 26, 1975

CHARLES SUISMAN
 MAX M. SHAPIRO
 LOUIS C. WOOL
 JAMES F. BRENNAN, JR.
 LOUIS PATRICK GRAY, III
 S. JOEL SUISMAN
 DALE P. FAULKNER
 THOMAS B. WILSON
 ANDREW BRAND
 THOMAS A. BISHOP
 MARILYNNE G. WOOL

NEW LONDON OFFICE
 325 STATE STREET
 NEW LONDON, CONNECTICUT 06320
 TELEPHONE 442-4416

REPLY TO: Groton

Mr. Theodore Jacobs
 House of Representatives
 Government Information Subcommittee
 B-349 Rayburn Building
 Washington, D. C. 20515

Dear Mr. Jacobs:

In our telephone conversation of Thursday, November 26, 1975, you requested that I provide you in letter form with certain information.

First, my personal staff and I did not move to the offices of the Director, F.B.I. until Tuesday, May 16, 1972. I did this purposefully because I wanted to give Mr. Hoover's people all the time they needed to remove his personal effects, personal papers, and memorabilia.

On the afternoon of Wednesday, May 3, 1972, after telephoning Mark Felt to ascertain whether or not a meeting that afternoon with the Assistant Directors of the F.B.I. would offend their sensibilities in view of their grief over Mr. Hoover's death, I went up to the Director's conference room and spoke to them at approximately 4:30 P.M., in a group, for about 15 to 20 minutes. I notified Mr. Kleindienst that I was going to do this. The tenor and substance of my remarks on that occasion are set forth in that portion of my addresses to the New York, and Mobile Field Offices of the F.B.I., copies of which are enclosed, relating to this meeting with the Assistant Directors. I, of course, did not cover with them all of the topics that I discussed in my addresses to the personnel of the Field Offices.

On the day that Mr. Hoover died, Mr. Kleindienst called me to his office to tell me of his death. It was on this occasion that I heard Mr. Kleindienst, in a telephone call

to Mr. Mohr, request that Mr. Mohr secure Mr. Hoover's office. It was my impression that the entire office was to be secured. I do not recollect that anything was said about securing files, nor did Mr. Kleindienst discuss files with me. Mr. Kleindienst was shocked and grief stricken as was everyone that I knew, or talked to, in the Department of Justice.

Before Mr. Hoover's funeral, I had occasion to talk with Mr. Mohr on the telephone several times regarding Mr. Hoover's funeral arrangements and I know that I met with him once in his F.B.I. office on the same subject to express certain wishes of the Department concerning these arrangements. I do not now recall what these wishes were, but Mr. Mohr informed me in no uncertain terms that the Bureau was going to conduct the funeral in its own way. These talks occurred before my appointment as Acting Director was announced.

I believe that my first discussion regarding files occurred when I met with Mr. Felt and Mr. Miller in my Civil Division office on Wednesday, May 10, 1972. We discussed many items at that meeting, but the subject of files came up, I believe, because of columns written at the time by Jack Anderson regarding secret files and political dossiers maintained by the F.B.I. I was informed then that such files were not maintained by the F.B.I. and that the Bureau maintained general files and investigative files. See in this connection the copy of the F.W. WAIKART to MR. MOHR memorandum of 5-18-72. This was one of the position papers prepared for the conference that I had with Mr. Felt and the Assistant Directors and my personal staff at the F.B.I. Academy at Quantico, Virginia on May 23 and May 24, 1972. These position papers resulted from the original avenues of inquiry that I prepared at my home in Stonington, Connecticut over the weekend following my appointment as Acting Director. These avenues of inquiry are appended as one of the exhibits to my confirmation hearing opening statement.

Before going up to meet Miss Gandy, I telephoned or spoke to Mark Felt about the propriety of such a visit, because I knew that she was devoted to Mr. Hoover and was deeply grieved by his death. Mark Felt arranged the visit, which

was a short one, and he accompanied me. I found her to be a gentle and charming lady and I expressed my deep sympathy to her. At the time I noted that packing boxes were on the floor of her office and that file drawers were open. I also noted that men from the Exhibit Section had packing boxes on the floor in the passageway and were removing Mr. Hoover's plaques and memorabilia from the walls. I am sure that we talked in the doorway of her office and I know that I did not on this, or on any subsequent visit, look at or thumb through any of the papers in the files.

I believe I made one or two other visits to the Director's office to discuss space and office occupancy for my personal staff. Mr. Felt was with me on these occasions, and again, we did not discuss, nor did I look at files. On these occasions, I am sure that I did no more than say hello, or exchange pleasantries with Miss Gandy. I am also quite certain that I told her, on my first visit that she and Mr. Hoover's people were to take all the time needed to ready the offices for my occupancy and that of my personal staff. Further, I believe that I paid one last visit to Miss Gandy, again accompanied by Mark Felt, to say goodbye to her just before she departed. On this occasion I again expressed my condolences and thanked her for her services to our country and wished her well in her retirement. On some of these visits, I believe that I was accompanied by one or more members of my personal staff, David Kinley, my Executive Assistant, and Mark Armstrong and Barbara Herwig, my special assistants.

In total, I believe that I may have made three or four visits to the Director's office before we moved in but these were devoted primarily to the first to meet Miss Gandy and the others had to do with moving arrangements, office occupancy, and painting, plus the acquisition of a larger conference room table.

I also enclose a copy of my address to THE THOMAS MORE SOCIETY of May 17, 1972 and a copy of a letter to me from Mr. Daniel J. Sullivan, a former Special Agent dated 18 May 1972. I did not, as he suggested, talk to J. Wright Brown or Donald G. Hanning, since I believed that I had sufficient assurances regarding the non-existence of secret files or political dossiers.

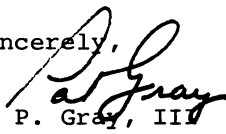
It now appears, in retrospect, that I did not know how to ask the right questions. See a copy of a clipping from THE DAY, New London, Connecticut of January 20, 1975, and a copy of a clipping from THE WASHINGTON POST of January 19, 1975.

I knew that Mark Felt had files in his office taken from Mr. Hoover's office. (See Mr. Mohr's memo of May 11, 1972 to me.) I did not know these were called O-C files until I learned of this designation in newspaper articles of fairly recent date. Nor did I ever look at these files. I had more than enough to do to take the time to rummage through them; however, Mark Felt suggested that we could review them if I was nominated and confirmed and he also suggested that they be destroyed after such review. That review, of course, was never conducted. I do not recall the exact time that Mark Felt made this suggestion to me, but I do know that it occurred sometime early in 1973 when he brought to me the memorandum re the South Vietnamese Embassy and Mrs. Chennault referred to in my letter of November 21, 1975 to you. At least, I am quite certain that such a discussion occurred at about that time.

This letter is written hurriedly in order to comply with your request. If I can be of any more assistance, please do not hesitate to call upon me.

With my best wishes and warm regards.

Sincerely,


L. P. Gray, III

LPG:mm
Enclosures

LAW OFFICES

SUISMAN, SHAPIRO, WOOL & BRENNAN, P. C.

1028 POQUONNOCK ROAD

GROTON, CONNECTICUT 06340

TELEPHONE (203) 446-8080

November 21, 1975

NEW LONDON OFFICE

325 STATE STREET

NEW LONDON, CONNECTICUT 06320

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 DALE P. FAULKNER
 THOMAS B. WILSON
 ANDREW BRAND
 THOMAS A. BISHOP
 MARILYNNE G. WOOL

REPLY TO: Groton

Mr. Theodore Jacobs
 House of Representatives
 Government Information Subcommittee
 B-349 Rayburn Building
 Washington, D. C. 20515

Dear Mr. Jacobs:

In accordance with our telephone conversation of Thursday, November 20, 1975, at 2:45 P.M., I enclose a copy of my Exhibit 177 submitted to the Ervin Subcommittee. This Exhibit consists of Mr. John P. Mohr's memorandum of May 11, 1972 to me re an anonymous communication regarding Mr. Hoover's files, investments, and personal affairs, and a column appearing in The Washington Daily News on Saturday, May 6, 1972; my note to him dated 5-13-72 at 8:50 A.M. inviting his attention to my comments on his memo of 5-11-72 to me; and, his note to me dated 5-16-72 returning his memo of 5-11-72 to me.

I believe you can read all of my comments on his memo of 5-11-72, with perhaps but a few exceptions. At the lower left hand corner of page 1, I wrote, "I believe you!" At the bottom of page 2, I wrote, "It is not. You are a diamond in the rough and a proud member of the FBI whom we cannot afford to lose. I expect you to continue to turn in, and deliver, an outstanding performance for our citizens and the FBI".

I do not have either the letter or the newspaper column referred to. Both should be in the Files of the FBI.

The other document which we discussed in our telephone conversation re technical surveillance of the Embassy of South VietNam and physical surveillance of Mrs. Claire Chennault is an Exhibit before the Federal Grand Jury

in the "Watergate" investigations, and I am not at liberty to release it to you.

I hope the Mohr memorandum of May 11, 1972 will be of assistance to you.

With my best wishes and warm regards.

Sincerely,

A handwritten signature in cursive script that reads "Pat Gray". The signature is written in dark ink and is positioned above the printed name.

L. P. Gray, III

LPG:mmm
Enclosures

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THOMAS B. WILSON
ANDREW BRAND
THOMAS A. BISHOP
MARILYNNE G. WOOL

November 27, 1976

REPLY TO: GROTON

Dear Mr. Jacobs:

There is enclosed additional documentation which may be of assistance to you.

(a) Copy of a note to my attorney, Stephen H. Sachs, Esq., dated 2-24-74.

(b) Copy of a Jf Routing Slip from my Executive Assistant, Dave Kinley to me dated 5/15 [the year is 1972] as will be self-evident from the notes attached to it. The notation thereon, "Personal file for notes" is in the handwriting of my then personal secretary, Mrs. Marjorie L. Neenan.

(c) Copy of the series of action items that I gave to Dave Kinley in preparation for our move from the Civil Division to the F.B.I. These are in my own handwriting and are undated, but were written on Friday, May 12, 1972, the day I drove to N.Y. City to visit the N.Y. Field Office. See TP ③ of these notes.

(d) Copy of block diagram of my May 1972 schedule.

Note TP ⑦ of (c) above. Later the F.B.I. compiled comments re the Anderson columns referred to, but I do not hold these. Mr. Kinley's handwriting is on (c) indicating the action taken, viz: "done". The study paper referred to in TP ⑦ of (c) above was forwarded to you with my letter of November 26, 1975.

Sincerely, *P. Gray*

12:10 PM 24
Sunday 2-25-74

Steve:

The attached is a series of action items I gave to Dave Kinsey in preparation for our move from the Civil Division to the late Mr. Hoover's office.

It's just background info, but it is of some import, I think, to note that we did not move up until ~~the morning~~ Tuesday, May 16, 1972.

Pat

12:14 PM

Form DJ-96a
(Rev. 6-22-66)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO:	NAME	DIVISION	BUILDING	ROOM
1.	<i>Mr. Gray</i>			
2.				
3.				
4.				

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input checked="" type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

*Personnel file
for notes*

FROM:	NAME	BUILDING & ROOM	EXT.	DATE
	<i>Stankiewicz</i>			<i>5/15</i>

- I want to
- ① *done* Meet with entire personal staff on Tues. AM at 9:00. This includes all men & women who are engaged at work in the office of The Director. We will meet in my conference room.
 - ② *done* Call Sandy Ungar. The last P of his story ~~today~~ is in error. I told him that the function of a Director's Advisory Committee or a Director's Consulting Group was in the conceptual stage, was an agenda item at the Executive's Conference meeting, was discussed, and that I directed the preparation of a study paper on the matter. Do not argue with him; just convey my info in a pleasant manner.
 - ③ *done* Except for the physical standards, women applicants for the position of SA will be treated exactly the same as male applicants. Equal opportunity across the board to participate will be the key.

42-10000-10000-10000-10000-10000
 5'4" 5'7"
 exception to 20-50 when considering
 20-40 converted to 20-20

Hal Bassett 3887
 1/25

Done
 Clear with Tom Bishop & Jack Harkin
 If Jack believes it necessary, get Dick Mont's advice
 re phrasing.

and issue today a ^{by me}
 Prepare press release re Women SA Applicants
 (a) Announce (again, even tho' it may be
 public knowledge & announced many times before)
 the requirements to be met by applicants for
 SA which will be required of men and
 women.

(b) Announce that physical standards
 for men will be essentially the same as
 those for men in the Armed Forces (The Director
 & his Advisory Medical Board, a Board to be
 created by me, will have the power to grant
 waivers to meet the needs of the FBI & only in
 exceptional cases)

(c) Same as (b) for our female applicants.
 Essentially the same as those for women in the
 Armed Forces. Same waiver power.

(d) Even though it has been a matter of
 public knowledge announce again the
 highlights of the SA training program.

(e) Announce the fact that applicable
 law and President's Exec Order clearly
 mandate my decision. Check with Irwin
 & Dave Anderson.

done
done
 ③ Call R.G.K.'s secretary, either Trina, Ann or Ann Marie. Ask that R.G.K. be informed that I will miss Staff luncheon today & will be visiting the NY Field Office - our largest. On Monday I will be visiting our Boston Field Office.

done
 ④ Moving. Late last eve I agreed with a proposed plan for our office space. Mark Fell is aware of the plan. Touch base with him. I would like us to be all moved in and pictures hung, books stowed, etc., and everything ready to go at full speed ^{Tuesday AM} by ~~Friday~~ my present desk of all contents & stow in boxes for movement up to new office. I will sort or MEN can do & place in desk for me. My pictures can be hung in passageway where Mr. Hoover had his pictures. I want early picture of President

If we need paintings to fill up
office wall space, get them from
Art Museum, Galleries, or from wherever
GSA gets them.

& his family to be hung in my private
office; same for color picture of the
President & Mrs. Nixon. My Admirals
ought to be hung in a group around
the picture of NAUTILUS (SSN 571) in the
passageway.

- * I want to locate in our files the exact
documents Mr. Anderson has in copy form.
- ② If I do not get a chance to talk to
Mr. Felt please tell him that I
do not wish to react in any way
to Mr. Anderson's current columns
other than to dig hard into our files
to get the comparative facts in the
most minute detail so that when
necessary to do so I may with
clarity, conviction, & without fear
of contradiction. If contacted, Tom
Bishop or Jack Husken are to reply
in two words, "No Comment". If
pressed, ^{very hard} they may say that the
matter of Files & Communications are
under continual study by Mr. Gray
as they have been since he was appointed.

on Thurs (5-11-72)

In point of fact the Executive Conference Agenda included Files & Communications & this matter is the subject of a study Paper now in preparation. If either Jack or Tom have to go beyond "No Comment" and I do not think they will, they can build an additional statement along the above lines.

- ⑧ Tell Mr. Felt that Mr. Bishop - or whoever handles this sort of thing - can send out my official photos to the Field Offices for display as ~~the~~ The Acting Director, But Mr. Hoover's photos are not to be discarded. These are to be placed in a place of honor in Field Offices with a suitable inscription underneath. Commence preparation of suitable inscription.

IN THE OFFING

President Nixon's swift move to install "his man"—L. Patrick Gray III—as acting head of the FBI has set off a wave of bitterness and suspicion between senior FBI officials and the White House.

The FBI men wanted one of their own to be appointed interim director to succeed the late J. Edgar Hoover. They say Mr. Nixon went outside the ranks of the bureau in an effort to grab control of the traditionally nonpartisan, apolitical investigative agency.

The administration was clearly concerned about the storied files Mr. Hoover's agents allegedly collected on the private lives of many prominent people, in and out of government.

On Tuesday afternoon, only a few hours after Mr. Hoover's death was announced, Mr. Gray, the man whom Mr. Nixon said the next day he would pick as acting head of the FBI, called top Hoover aide John P. Mohr and demanded that he turn over all files in Mr. Hoover's office "which pertain to the activities of congressmen, Justice Department officials and other important public officials."

Mr. Mohr told Mr. Gray he didn't know what Mr. Gray was talking about. "I don't know of any such files," said Mr. Mohr.

HOOVER'S OFFICE LOCKED

Mr. Gray angrily hung up and within 30 minutes called back to say that under orders of Acting Atty. Gen. Richard G. Kleindienst, Mr. Hoover's office was to be sealed and the keys to all doors and filing cabinets immediately brought to Mr. Kleindienst's office. This was done.

When Mr. Gray's appointment was announced, the White House stressed Mr. Nixon's wish to name as FBI chief someone who enjoys the President's "implicit personal confidence." Mr. Gray has had no experience in law enforcement.

"They are just plain afraid of this agency," a top echelon FBI official said. "They wanted their man in here to keep things the way they want them."

MEETS TOP LEADERS

Mr. Gray has moved to allay FBI officials' fears of intrusion into political activities. He met with top bureau officials shortly after being named to the post and also arranged to meet with heads of 60 FBI offices across the country. But reaction in the top reaches of the FBI is dubious. Speculation is that Mr. Mohr and others may soon resign.

Mr. Hoover may have anticipated such a situation. Several years ago the FBI tried to persuade Congress to require that Mr. Hoover's successor come from within the FBI. But the lobbying effort died.

NOTE.— Mr. Nixon's decision to postpone nominating a permanent successor to Mr. Hoover until after the elections will not take the question out of the presidential campaign. The voters will know that the man they elect in November will pick the nation's top cop. If the Democratic nominee is Sen. George McGovern, administration strategists plan to say it will be a clear-cut choice between law and order and permissiveness, a choice they think favors Mr. Nixon.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

TO : MR. MOHR

FROM : *FWW* W. WAIKART

DATE: 5-18-72

SUBJECT: POSITION PAPER NUMBER 5
BUREAU FILES

*See
app 11/26/75*

Felt	_____
Mohr	_____
Rosen	_____
Sullivan	_____
Tavel	_____
Trotter	_____
Tele. Room	_____
Holmes	_____
Gandy	_____

SYNOPSIS:

The Bureau's general files, serviced and maintained by the Files and Communications Division, have no direct relationship with data in the National Crime Information Center (NCIC) and the Identification Division; however, security and confidentiality of the material are provided for in all areas. Current policies and programs are believed sound and adequate although development of the Computerized Criminal History Program requires continued attention. A new Executive Order 11652 on the classification of mail has been issued and its effect on our procedures is being followed. Automation, an integral part of present NCIC operations, is being actively pursued in the Identification and Files and Communications Divisions and undoubtedly will be the major development in the future for both Divisions.

RECOMMENDATIONS:

(1) That present security precautions be continued and all supervisory employees be reminded of the need to be constantly alert for possible breaches or leaks of any kind.

(2) That continued close attention be given to the newly developed Computerized Criminal History Program of NCIC relating specifically to uniform policies, possibly implemented by legislative action.

1-Mr. Felt
1-Mr. Mohr
1-Mr. Rosen
1-Each Assistant Director

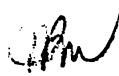
FWW:jmr
(20)

Encs.

Memo to Mr. Mohr from F. W. Waikart
Re: Position Paper #5 - Bureau Files

(3) That classification of mail procedures as redefined in the new Executive Order 11652 be followed in order to determine their effect on the Bureau's operations.

(4) That automation of records and procedures in the Identification and Files and Communications Divisions be developed as rapidly as possible with due regard for the continued enforcement of security and confidentiality of records.



DETAILS:

Pursuant to the instruction of Acting Director Gray, the following Position Paper Number 5 on Bureau Files and other major records systems serviced by the Bureau is submitted. For purposes of clarity, the following outline is followed:

1. Bureau Files - Records Branch, Files and Communications Division
Current Policies and Procedures
2. Relationship Between Bureau Records, National Crime Information Center (NCIC), and Fingerprint Records
3. Security of Records - Records Branch, NCIC, and Identification Records
4. Adequacy of State Safeguards - NCIC (Supplement 5a.)
5. Classification of Documents (Supplement 5b.)

Memo to Mr. Mohr from F. W. Walkart
Re: Position Paper #5 - Bureau Files

1. FILES AND COMMUNICATIONS DIVISION

BUREAU FILES -- POSITION PAPER #5

Records Branch -- Current Policies and Procedures

The mission of the Records Branch is to receive information in a variety of forms from all sources (excluding fingerprints and NCIC inquiries) and to route that information to the appropriate supervisory officials throughout the Seat of Government for proper action and, after such action is taken, to index, process, and store it in such a manner that it is available for immediate recall or use at any future time. This responsibility is currently being met with a high degree of effectiveness by a records processing system developed and refined over many years which, in an essentially manual mode, exercises strict control over all records processing steps, insures full accountability in every area, and is completely responsive to the needs of the users of this records material. It is a system dedicated to thoroughness, accuracy, and swift response.

This massive records operation, consisting of more than 6,000,000 files and in excess of 57,000,000 index cards, using nearly 1,200 employees in records processing and a wide variety of service and support activities, is kept vital, relevant, and at a minimum volume for maximum effectiveness by a comprehensive records management program designed to weed out records material which has lost its usefulness, to store in microform records which must be maintained but are of minimal use, and to consolidate active records.

This records system, in the manual mode, is most effective; however, it is recognized that the tools of modern automation offer a potential for increased effectiveness and great flexibility in the use of records material. Accordingly, several programs are currently underway to automate vital areas of the records system in the Files and Communications Division. These include automation of the general index, automation of certain areas of the main file room, and mechanization of the delivery of mail and files throughout the entire records system and the rest of the Seat of Government.

Memo to Mr. Mohr from F. W. Walkart
Re: Position Paper #5 - Bureau Files

The above procedures in the Files and Communications Division are subject to continuing evaluation and analysis and have been found to be responsive to the Bureau's needs. Our active on-going program of automation of records and services offers a potential for increased effectiveness and flexibility in the future.

Data and record material maintained and serviced by the National Crime Information Center and the Identification Division have no direct relationship to the Bureau's records as outlined above. The following section comments upon this, followed by commentary on security in all of these areas.

**2. RELATIONSHIP BETWEEN BUREAU RECORDS,
NATIONAL CRIME INFORMATION CENTER (NCIC),
AND FINGERPRINT RECORDS**

Relationship to the National Crime Information Center (NCIC)

The Files and Communications Division and its handling of the Bureau's files have no direct existing relationship with the NCIC. The NCIC is designed to meet a particular need of law enforcement agencies, local, state and Federal, throughout the country which is unique and, in carrying out its mission, the NCIC relies upon its own records (some of which have been drawn from existing Records Branch files) and its own separate communications network. The records function of the Files and Communications Division is designed to meet the needs of Bureau operations rather than those of law enforcement agencies generally throughout the country. The NCIC does, on occasion, generate record material which can become part of the records holding of the Files and Communications Division; however, this relates to a very small portion of that operation. It is conceivable, as the NCIC grows and automation within the Files and Communications Division develops more fully, that certain trade-offs between the two systems would be useful, but these are not now in a planning stage.

Memo to Mr. Mohr from F. W. Waikart
Re: Position Paper #5 - Bureau Files

Relationship to the Identification Division

A similar situation prevails with regard to the fingerprint records of the Identification Division in that they have no direct relationship to the records of the Files and Communications Division but rather are directed to the requirements of other law enforcement agencies throughout the world. Automation of Identification Division operations, particularly the massive name index within that Division which is being pursued separately, may ultimately lend itself to a match-up of certain name search functions carried out within the Files and Communications Division under its proposed index automation and this will be kept in mind as the separate programs are developed and refined. The Computer Systems Division exercises desirable direction and control of all automation in the Bureau and will undoubtedly act as coordinator, particularly in the fields of system design and hardware acquisition and maintenance.

3. SECURITY OF RECORDS

Records Branch

There have never been any confirmed leaks to unauthorized persons of data maintained in the Records Branch of the Files and Communications Division. The security of these records has been and continues to be preserved in the utilization of thoroughly investigated personnel, closely supervised by an alert staff within a records system containing built-in safeguards. All mail processing functions are specialized and limited to designated groups of employees, i. e., Routing, Classifying, Searching, Filing, etc., militating against an employee systematically pilfering data from our files. A high degree of accountability is maintained wherein handling of the mail can be traced to employees by identifying symbols they are required to inscribe on each piece of mail processed by them. On a selective basis certain sensitive records are afforded special handling and are processed through the records operation in envelopes in order to limit exposure of the contents to a minimum number of employees. Any additional marking or classification has not been necessary. (Classification of documents going outside the Bureau is covered in part 5b. of this report.) Likewise, a small file room is maintained separately from the central files servicing approximately 500 files containing sensitive data.

Memo to Mr. Mohr from F. W. Waikart
Re: Position Paper #5 - Bureau Files

Our experience in records operations over many years, contrasted with the somewhat extreme procedures utilized in other agencies, has consistently demonstrated our ability to process, service, and control a high volume of material swiftly, accurately, and safely with no breach of security. Within the past few weeks, consideration was again given to the possibility of maintaining a separate file room with supportive services for the Domestic Intelligence Division in the new FBI Building. It was concluded that the present centralized system tightly controlled within the Records Branch was the most efficient, secure, and responsive to the total needs of the Bureau. Our objective is and must be to continue to handle all mail and files (security, criminal, personnel and general) as uniformly as possible and with every reasonable precaution and safeguard.

National Crime Information Center (NCIC)

NCIC has built into its computer program safeguards to protect data contained therein on outstanding warrants of arrest (fugitives) and reports on stolen property. Additionally in NCIC files containing criminal history data (offenders' past records), specific policy recommended by the NCIC Advisory Policy Board, adopted by NCIC and approved by the Attorney General, precludes the exchange of any interstate criminal history data with a computer system not under the management control of a criminal justice agency. Other restrictive regulations implement this policy and are covered in more detail in the appended write-up 5a. "Security of Information in NCIC - Adequacy of State Safeguards."

Identification Records

Title 28, U.S. Code, Section 534, provides for the dissemination of identification records to authorized officials of the Federal Government, states, cities, and penal and other institutions. This Section also provides for the cancellation of identification services to an agency that is responsible for the misuse of FBI identification records. During the past ten years it has been necessary to cancel identification services to six law enforcement agencies as the result of misuse of identification records. Local and state agencies with which we exchange records are thoroughly familiar with the restrictions and exercise security precautions to comply. Experience indicates these safeguards are sufficient.

There are attached Supplements 5a. "Security of Information in NCIC - Adequacy of State Safeguards" submitted by Assistant Director William B. Soyars and 5b. "Classification of Documents" submitted by Assistant Director D. J. Dalbey.

PART 4SECURITY OF INFORMATION IN NCIC
ADEQUACY OF STATE SAFEGUARDS

5-A

(Assistant Director W. B. Soyars)

SYNOPSIS

NCIC computers store data for use by Federal, state and local criminal justice agencies. Two general categories of data (1) records of wanted persons and stolen property, and (2) criminal history data. Latter category considered more sensitive and thus afforded tighter security. NCIC employs number of measures to protect all data in system, including (1) preventing one agency from changing other agency's records, (2) assuring records are complete to avoid mis-identification, (3) record validation checks, (4) dedicated communications lines, (5) administrative follow-up procedures when data retrieved, (6) traffic analysis to detect misuse of system and (7) control terminals assigned responsibility to assure proper use of system and to assure no unauthorized access. Policies allow first category of data to be handled at state or local level by computer system not under management control of criminal justice agency, although this not recommended by NCIC or its Advisory Policy Board. Second category (criminal history data) requires, in addition to 7 measures above, (1) that any computer system handling data be under management control of criminal justice agency, (2) security officers assigned at control terminals, (3) constant review of policies by security committee, and (4) execution of signed agreement with criminal justice agencies to abide by rules. Some disagreement exists at state and local levels with management control concept where use of non-criminal justice system requested; however, a majority of agencies are complying. Reasons for policies set forth. Federal legislation needed with regard to access to criminal history data. Also needed is conformity between LEAA funding policies and NCIC policies.

SECURITY OF INFORMATION IN NCIC ADEQUACY OF STATE SAFEGUARDS

DETAILS

Information stored in FBI computers for use by Federal, state and local agencies participating in the NCIC can be placed in two general categories. The first is data concerning persons wanted (warrants outstanding) and stolen property. This category contains the computerized files utilized by law enforcement nationwide to check on suspect individuals and property in their day-to-day police activities. The second category concerns the newly created criminal history file (CCH) which has changed the nature of the NCIC from a system serving law enforcement to one serving the entire criminal justice community. The criminal histories of individuals are of value not only to police in an investigative sense but of value to magistrates in bail situations, prosecutors in making decisions as to prosecutive action, judges in determining appropriate sentences, corrections in determining type of detention facility, parole in determining type of supervision, etc. Criminal history data is a compilation of an individual's documented (no intelligence or dossier type information is included) contacts with criminal justice agencies which data, if misused outside the criminal justice system, might constitute an invasion of privacy in matters of employment, credit, political activity, etc. This latter category of data then assumes a more sensitive nature than data concerning warrants or theft of property reports and accordingly has been afforded tighter security within the NCIC system. Measures to protect the confidentiality of data in the system include the following:

NCIC Files Concerning Outstanding Warrants and Reports of Stolen Property

1. Each record is identified with the agency creating the record and is protected by computer programming in the NCIC from change by any other agency.
2. Each NCIC file is protected by programmed edits to make certain sufficient data is included in record entries to prevent an erroneous identification.

3. Periodic validation checks with the entering agencies are made to assure records listed as active are in fact valid.

4. Communications links are dedicated to NCIC use and are not susceptible to intrusion by unauthorized users.

5. Follow-up procedures are immediately instituted with regard to every "hit" (instances where an active record is supplied in response to an inquiry) which procedures are effective in identifying any capricious use of the files.

6. Detailed statistics are compiled from daily logs of transactions which statistics are subject to scrutiny by NCIC staff for any trends which indicate a deviation from normal usage.

7. NCIC control terminals (criminal justice agencies tied directly to the NCIC system) are held responsible for appropriate discipline being exercised in use of the system, particularly with regard to any attempts at unauthorized use or actual misuse. These control terminals are responsible for the assurances that system access is restricted to duly authorized law enforcement agencies and that all terminal devices are in secure locations.

The foregoing security measures are deemed adequate in the eyes of NCIC and user agencies nationwide as they pertain to the files in this category. In June, 1969, at the initial meeting of the NCIC Advisory Policy Board, a group of 22 law enforcement administrators representing agencies nationwide, the Board supported the doctrine that computerized systems handling law enforcement information be under the management control of a law enforcement agency. With regard to wanted persons and stolen property files, the use by state and local agencies of computer systems operated and controlled by non-criminal justice agencies while not desirable has been allowed where circumstances afforded no other means of service to law enforcement. In these cases the checks heretofore described have been deemed adequate to protect the validity of such files. Any misuse can be quickly detected and is immediately brought to the attention of the control terminal agency for appropriate disciplinary action. Information contained in records in this category is current in nature and not normally the type data to be used in a manner which would invade upon one's privacy.

**NCIC Files Containing Criminal History
Data (Offenders' Past Records)**

All of the above security measures are imposed on the exchange of criminal history data with important added precautions. These are as follow:

1. Specific policy recommended by the NCIC Advisory Policy Board, adopted by the NCIC and approved by the Attorney General precludes the exchange of any interstate criminal history data with a computer system not under the management control of a criminal justice agency. If criminal justice agencies are to be held responsible for maintaining the confidentiality of this data, control over the handling of such data should not and cannot be divided. It is preferred this data be handled solely by criminal justice agencies in dedicated systems; however, if economics and/or other circumstances dictate the use of a computer system operated by a non-criminal justice agency the handling of criminal history data must be under the control of criminal justice. This control is defined as the authority to hire and fire personnel as well as to set and enforce policy concerning computer operations. This control includes, but is not limited to, the direct supervision of equipment, systems design, programming and operating procedures necessary for the development and implementation of the CCH Program. Such control must remain independent of a non-criminal justice system and the agency having such control must be primarily dedicated to the service of the criminal justice community.
2. Security officers are required in each control terminal agency to assure compliance with all established policies.
3. A security committee to report to the Advisory Policy Board is in operation constantly to appraise existing security policies and to make recommendations to the Board concerning any deviations on the part of user agencies.
4. Agencies participating in the exchange of interstate criminal history data with the NCIC must sign an agreement to abide by all of the foregoing policies or be subject to immediate discontinuance of computerized criminal history service.

These more stringent security measures adopted with reference to the exchange of criminal history data are necessary. This is to make certain the NCIC system is not vulnerable to any claims by special interest groups or legislators that criminal history data is not being afforded adequate protection against misuse. For the most part state and local agencies are complying with these policies. There are, however, some states where legislation exists requiring all data processing to be centralized and handled by one state service agency. Even in some of these states there are system designs which allow criminal justice control over criminal history data. Other states and local agencies are voicing objections claiming a shared central service agency concept can afford adequate protection for this data and render effective service. The NCIC, acting on the advice of the Advisory Policy Board, disputes this fact, basing our objections again on the division of responsibility; the technical impossibility of affording complete protection against unauthorized access to data stored in a shared system; and, criminal justice needs are a 24-hour-a-day, 7-day-a-week requirement for service in oftentimes emergency situations. A system bound to serve the needs of a number of users, from experience by users in the system, cannot effectively meet the latter requirement.

The economic argument voiced by proponents of the shared system concept is not persuasive. The advent of smaller computers and electronic switchers capable of handling criminal justice communications and a limited data base for sensitive data make it difficult to automatically assume that dedication to a criminal justice function is not practical. For a huge centralized system to take on added responsibility for law enforcement communications and storage of sensitive information considerable cost will also be incurred. The National Association of State Information Systems (NASIS) is one group which consistently and vociferously advocates a large centralized system to meet the entire needs of state and local governments.

We can expect most state and local agencies to make every effort to comply with NCIC policies. There will, however, be a hardcore group that will object primarily due to a lack of knowledge concerning the real issues and the acceptance without question of self-serving arguments by lobbyists for the establishing of large computer centers. An added factor that cannot escape attention of these lobbyists is the availability of law enforcement funding from the Federal Government to acquire computers for law enforcement purposes.

What Is Needed?

Federal legislation is needed in this area to establish firm regulations concerning access to criminal history data. While any state or locality has the prerogative of handling their own information as they see fit, information of the several states should be protected in the event of interstate exchange.

Of great importance is the elimination of conflict in policies promulgated within the Department of Justice. On one hand the NCIC and its users advocate the handling of criminal history data be restricted to criminal justice agencies. On the other hand the Law Enforcement Assistance Administration (LEAA) is funding systems whereby criminal history data is handled by non-criminal justice agencies. These policies tend to divide and confuse users and potential users of the NCIC/CCH File. Such practices should be immediately discontinued.

WBS

PART 5CLASSIFICATION OF DOCUMENTS
(Assistant Director D. J. Dalbey)

5-B

Are classification procedures completely responsive to our needs and to the needs of other Federal agencies?

With all due respect, we do not believe that we can give a completely responsive answer to this question at this time. The problems of classification have been wrestled with for years, off and on, by the Congress, the President, the Department of Justice, and many others. They are doing so now with the transition on June 1, 1972, from Executive Order 10501, under which the Government classified for years, to the new Executive Order 11652.

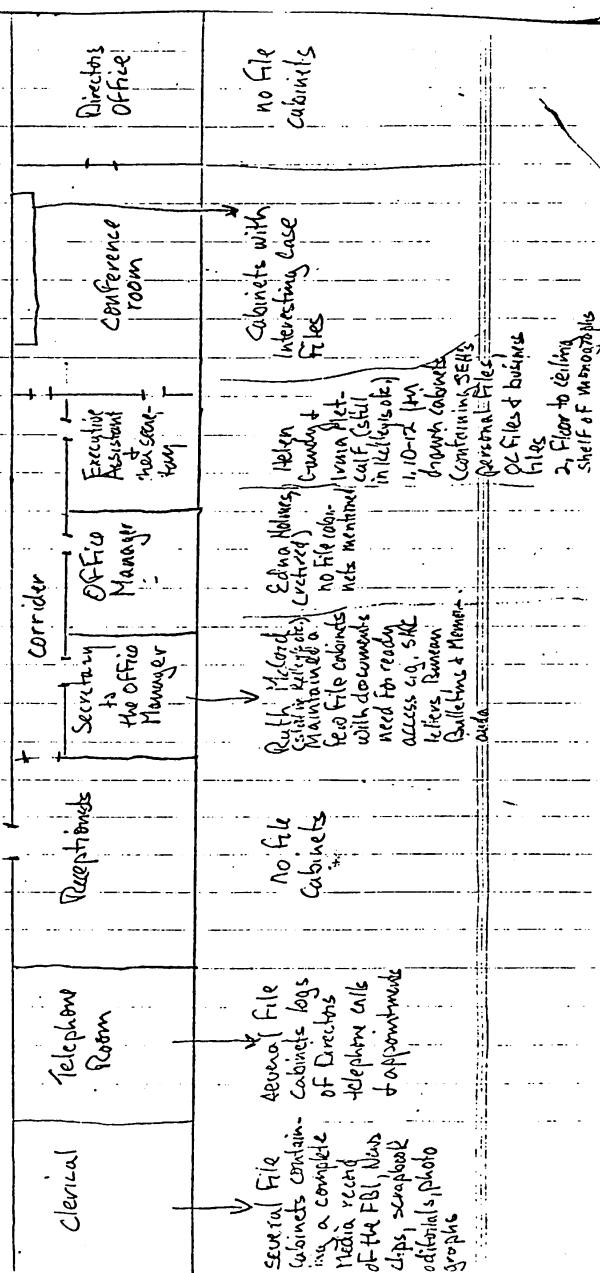
FBI ability to operate an effective classification system under the new Executive Order will be significantly affected by the new regulations under that Order which are yet to be issued by the Department of Justice. Our anticipated problems already have been called to the attention of the Department in writing.

The classification system used under the old order has not been totally successful in protecting our classified information. There have been some leaks. Most of them have occurred, so far as we can determine, as an indirect result of FBI dissemination policy. We are required to disseminate information of a classified nature to other agencies having a legitimate interest in that information. The result is the situation described as "FBI files all over town." This is where the leaks occur.

Some classified information has surfaced as a result of the burglary of the FBI Resident Agency in Media, Pennsylvania. Also, a few items have become public knowledge from statements made by former employees such as Robert Wall, who worked on security cases as a Special Agent in the Washington Field Office.

An American version of the British Official Secrets Act, criminally punishing any person, legal or otherwise, who publishes classified information would be of help. The FBI previously has so advised the Department.

The Director's Suite
after the death of J. Edgar
Hoover's death May 2, 1972



U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, D.C., July 16, 1975.

Re: "Official and confidential" files.

U.S. SENATE SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS WITH
RESPECT TO INTELLIGENCE ACTIVITIES

Reference is made to memorandum from captioned Committee dated May 14, 1975, and the request of staff member Mark Gitenstein on June 5, 1975, requesting certain information pertaining to the "official and confidential" files.

In response to the aforementioned request, we are attaching a copy of the results of an FBI Inspection Division inquiry into the "official and confidential" files matter entitled, "Inquiry Into Disposition of Files Maintained in the Office of Former Director J. Edgar Hoover," dated July 3, 1975.

A list of individuals who were contacted during this inquiry and have some knowledge relating to this matter has been prepared and is available for review by staff members of the Senate Select Committee in FBI space.

Enclosure.

INQUIRY INTO DISPOSITION OF FILES MAINTAINED IN THE OFFICE OF
FORMER DIRECTOR J. EDGAR HOOVER

On June 4, 1975, Mr. Douglas R. Marvin, Special Assistant to the Attorney General, telephonically contacted Mr. J. D. Adams, Deputy Associate Director, FBI, stating the Attorney General desired that active inquiries be conducted as to whether any official files were removed from Mr. Hoover's office to his residence following his death and may have been subsequently removed from that address following the death of Clyde A. Tolson. Upon receipt of this request the Inspection Division initiated an immediate inquiry under the direction of Deputy Assistant Directors Hunter E. Helgeson and Willie C. Law.

This inquiry, which was concluded on June 27, 1975, involved interviews with over 100 individuals. Among those interviewed were former Assistant to the Director John P. Mohr; Miss Helen W. Gandy who was Mr. Hoover's Executive Assistant; and all other personnel assigned to Mr. Hoover's office at the time of his death. Included in these interviews were over 50 individuals who were in any way involved in packing and moving material from Mr. Hoover's office to his residence subsequent to his death.

The inquiry developed no information to show that any official files were removed from Mr. Hoover's office to his residence following his death.

In summary, our inquiry developed the following information:

Mr. Hoover's "Official-Confidential" or "OC" files together with some official Bureau files maintained in Miss Gandy's office were transferred very shortly after his death to the office of Assistant Director—Deputy Associate Director W. Mark Felt.

We located a typewritten note dated May 5, 1972, prepared by Mrs. Erma Metcalf, Mr. Hoover's Administrative Assistant, which includes information indicating that the "Official-Confidential" files had been turned over to Mr. Felt on May 4, 1972, two days after the death of Mr. Hoover. Mr. Felt has confirmed receipt of these files.

Also located was a "List of Official-Confidential Files In Director's Office," dated October 20, 1971, which was prepared by Mrs. Metcalf. When the "Official-Confidential" files were inventoried by the Inspector Staff in January, 1975, all of the folders listed on the October 20, 1971, inventory prepared by Mrs. Metcalf were physically located with the exception of three folders captioned with the names of three present or former FBI officials. We have been unable to account for the disposition of these three folders. It can be speculated that these folders may have contained copies of communications, the originals of which were maintained in the normal personnel files of these individuals, and which may have been of particular interest to Mr. Hoover. The reason these folders were removed from the "Official-Confidential" files could not be determined.

The "Official-Confidential" files listed on the October 20, 1971, inventory with the exception of the three folders, mentioned above, continue to be maintained at FBI Headquarters.

Since their inception, the maintenance of the "Official-Confidential" files was the responsibility of either Miss Gandy or Mrs. Metcalf. Mrs. Metcalf has stated that these files were "very inactive" and it was "very very seldom" that anyone needed anything from them. Miss Gandy described these files as "not active" and stated they were referred to only on rare occasions. Both stated that to their knowledge these files were never used for other than official purposes.

Miss Gandy advised that Mr. Hoover told her the "Official-Confidential" files should be turned over to whoever was running the Bureau when he left.

She stated that she alone was responsible for designating material to be removed from Mr. Hoover's office after his death and nothing of an official nature, Bureau files or otherwise, was sent to Mr. Hoover's house or elsewhere outside the Bureau. To emphasize this she said, "not even his badge."

According to Miss Gandy, there were about 35 file cabinet drawers of Mr. Hoover's personal correspondence which were packed in cardboard boxes and moved to his home shortly after his death. After her retirement Miss Gandy spent about two months reviewing this personal correspondence for subsequent destruction. She reviewed each item and said she found nothing of an official Bureau nature contained therein.

In addition to the personal correspondence, two 3-drawer and two 2-drawer file cabinets containing folders of material pertaining to Mr. Hoover's personal business affairs were removed from his office and moved to the recreation room in the basement of his home. The material in these file cabinets included such things as copies of every income tax return filed by Mr. Hoover and separate folders on each of his stock and oil well investments. These file cabinets, with their contents, are still at Mr. Hoover's residence, plus two other file cabinets containing similar material relative to the personal business affairs of Clyde A. Tolson, which were also brought to Mr. Hoover's residence shortly after Mr. Hoover's death.

Mr. John P. Mohr stated, "There were never any Bureau files taken to Mr. Hoover's house after Hoover's death." He participated in an inventory for tax purposes of the entire contents of Mr. Hoover's home in July, 1972, and pointed out that if there had been such files there he would have seen them and he observed none.

During this inquiry we interviewed over 20 persons who had been at Mr. Hoover's house within a short time after his death. None of the persons could furnish any information indicating the presence of any official Bureau files at his residence.

It was the recollection of Raymond Smith, a Bureau truck driver, that shortly after Mr. Hoover's death he delivered a total of 20 to 25 file cabinets to Mr. Hoover's home and placed them in recreation room in the basement. He said these cabinets were full and that during the moving a drawer came open on one of the cabinets and he observed light colored folders inside with the contents of each folder roughly one inch thick. He is unable to say where these file cabinets came from as they were already on his truck when he received his instructions to take them to Mr. Hoover's residence. Inasmuch as no other persons interviewed could corroborate that such a large number of file cabinets were delivered to Mr. Hoover's house, Smith was reinterviewed on two further occasions in an effort to develop anything which would assist in substantiating or disproving that this occurred. At this point Smith remains adamant that he did, in fact, bring 20 to 25 file cabinets to the house.

Of more than 20 persons interviewed who were at Mr. Hoover's house subsequent to his death none ever recall seeing such a large number of file cabinets. James Crawford, the caretaker at Mr. Hoover's house for many years, and Miss Annie Fields, his cook and maid, who were at the house daily are emphatic that there were never more than six file cabinets in the recreation room of Mr. Hoover's house at any time and that Smith has to be wrong.

It is the feeling of those who have interviewed Smith that he believes he actually did deliver as many file cabinets as he has indicated, but he is in fact confusing a number of instances. We have determined that a large number of cardboard boxes containing Mr. Hoover's personal effects and memorabilia were taken to Mr. Hoover's residence from his office within about one week after his death. Smith participated on a number of occasions in hauling this material to the house and into the recreation room where most of it was stored. We have

also determined that he was present and assisted in moving some of the six file cabinets, previously mentioned, and have determined that at the time they were moved some of these cabinets did contain light colored folders, the contents of which are approximately one-inch thick.

Of the nearly 40 persons interviewed who were involved in moving material, none has any recollection of participating in the movement of 20 to 25 file cabinets to Mr. Hoover's residence or of seeing such a number there. We can only conclude that while honest in his belief Smith has a jumbled recollection of the facts due to the passage of over three years since Mr. Hoover's death.

Part of the request of the Attorney General was to determine whether any official files had been removed from Mr. Hoover's residence following the death of Mr. Tolson. Inasmuch as our inquiry has shown that there were no such files at Mr. Hoover's home it follows that none were removed after Mr. Tolson's death. However, we did make inquiry into the movement of anything which might be construed to be files from Mr. Hoover's house after Mr. Tolson's death on April 14, 1975, and found no such evidence.

It was determined, however, that shortly after Mr. Tolson's death a number of empty cardboard boxes were taken to Mr. Hoover's residence by a Bureau employee. These boxes were utilized by James Crawford, the caretaker, to pack pictures which had been laying loose in the attic and also to dispose of some old canned goods. The boxes with the canned goods were placed in the garbage outside.

In connection with the removal of material from Mr. Hoover's home, it was determined that during the period of approximately the middle of May to the middle of July, 1972, cardboard boxes containing the personal correspondence of Mr. Hoover, which had been reviewed by Miss Gandy at his residence, were picked up at the house on several occasions and destroyed by personnel of the Washington Field Office.

Also in connection with the removal of material from Mr. Hoover's house, it was determined that on two occasions in 1974 numerous cardboard boxes containing books were removed from Mr. Hoover's home, loaded onto trucks and delivered to the library at the FBI Academy, Quantico, Virginia. These books had been purchased by the J. Edgar Hoover Foundation and donated to the library.

[From the Federal Register, vol. 40, No. 167, Aug. 27, 1975]

JUSTICE/FBI—002

System name: The 'FBI Central Records System' containing investigative, personnel, administrative, applicant, and general files.

System location: a. Federal Bureau of Investigation, J. Edgar Hoover FBI Building, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20535; b. 59 field divisions (see Appendix); c. 16 Legal Attaches (see Appendix).

Categories of individuals covered by the system

a. Individuals who relate in any manner to official FBI investigations including, but not limited to suspects, victims, witnesses, and close relatives and associates that are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto that are considered relevant to an applicant investigation, personnel inquiry, or persons related to personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto that are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, contacts with other agencies, businesses, institutions, clubs, the public and the news media.

e. Individuals, associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

Categories of records in the system

The FBI Central Records System—The FBI utilizes a 'central records system' of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter

files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in file. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

Files kept in FBI Field Offices—Field offices maintain certain records that are not contained at FBIHQ that include files, index cards, and related material pertaining to cases in which there was no prosecutive action undertaken; perpetrators of violations not developed during investigation; or investigation revealed allegations were unsubstantiated or not within the investigative jurisdiction of the Bureau. These investigations closed in field offices and correspondence not forwarded to FBI Headquarters. Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. Some of the information contained in the main files has also been extracted and placed on computer to enable various divisions to retrieve information more rapidly by avoiding the need for a manual search for information maintained in the main files. Also, personnel type information dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

Authority for maintenance of the system.—Federal Records Act of 1950. The Constitution of the United States, various provisions of U.S. Codes Executive Orders and Presidential directives.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records contained in this system are utilized by the FBI in support of its mission to conduct investigations within its jurisdiction and for various administrative purposes. Information from these files is disseminated to appropriate Federal, state, local, and foreign agencies where the right and need to have access to this information exists—For example, to assist in the general crime prevention and detection efforts of the recipient agency. Information is also disseminated to these agencies and to individuals and organizations, where such dissemination is necessary to elicit information from such agencies and individuals. Information from this system is also disseminated during appropriate legal proceedings. For example, witness interviews are made available to defendants pursuant to the Jencks Act during Federal criminal trials. In the event that a system of records maintained by this agency to carry out its functions indicated a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. A record from this system of records may be disclosed as a 'routine use' to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. Background and descriptive information on Federal fugitives is disseminated to the general public and the news media in an effort to bring about the apprehension of these wanted individuals. News releases are also disseminated to the public and the news media concerning apprehensions of FBI fugitives and other notable accomplishments. Additionally, public source information is distributed on a continuing basis, upon request, to the general public and representatives of the media.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage.—Files are maintained in hardcopy form and microfilm.

Retrievability.—The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. The index cards are on all

manner of subject matters, but primarily a name index of individuals. It should be noted the FBI does not index all individuals that furnish information or names developed in an investigation. Only that information that is considered pertinent and relevant and essential for future retrieval, is indexed. In certain major cases most persons contacted are indexed in order to facilitate the proper administrative handling of a large volume of material. The FBI is in the process of automating its 'Central Records System' and, therefore, the retrieval of certain data will be accomplished by utilizing certain computer peripheral equipment such as CRT (Cathode Ray Tube) video screens, and printers. This will basically involve certain personnel information, general index information, and the abstracting system. Automation in no way changes the 'Central Records System'; it only facilitates access more effectively and efficiently.

Safeguards.—Records are maintained in a restricted area and are accessed only by FBI employees. All FBI employees receive a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a \$10,000 fine or 10 years' imprisonment or both. Employees that resign or retire are also cautioned about divulging information acquired in the job.

Retention and disposal.—An active destruction program includes microfilming of certain files over 10 years old and researching files to determine whether they contain sufficient historical, research, investigative, or intelligence value to warrant their retention. Subsequent destruction is accomplished through authority granted by National Archives and Records Service, GSA, utilizing either the General Records Schedules or a specific request for record destruction which is approved by the Archivist.

System manager(s) and address.—Director; Federal Bureau of Investigation, Washington, D.C. 20535.

Notification procedure.—Same as above.

Record access procedures.—A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked 'Privacy Access Request'. Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document or its file number. The requester will also provide a return address for transmitting the information. Access requests will be directed to the Director, Federal Bureau of Investigation, Washington, D.C. 20535.

Contesting record procedures.—Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, D.C. 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

Record source categories.—The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

Systems exempted from certain provisions of the act.—The Attorney General has exempted this system from subsections (c) (3) and (4), (d), (e) (1), (2) and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m) of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e) and have been published in the Federal Register.

JUSTICE/FBI—003

System name.—Bureau Mailing List.

System location.—External Affairs Division, FBI; 9th and Penna, N.W.; Washington, D.C. 20535.

Categories of individuals covered by the system.—Individuals who have requested receipt of published Bureau material and who meet established criteria (basically law enforcement or closely related areas).

Categories of records in the system.—Name, address and business affiliation, if appropriate.

Authority for maintenance of the system.—Title 5, U.S. Code, Section 301 and Title 44, U.S. Code Section 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses.—For mailing of FBI material published on a regular basis.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage.—Computerized and 3X5 index card.

Retrievability.—ID number in computer, alphabetically for card index.

Safeguards.—Computer records maintained by Computer Systems Division, system operated by FBI personnel.

Retention and disposal.—Revised on a monthly basis.

System manager(s) and address.—Director, FBI, Washington, D.C. 20535.

Notification procedure.—Director, FBI, Washington, D.C. 20535.

Record access procedures.—Inquiry directed to Director, FBI, Washington, D.C. 20535.

Contesting record procedures.—Same as the above.

Record source categories.—Individual requests for FBI material or official recommendation, from individuals associated with law enforcement.

Systems exempted from certain provisions of the act.—None.



The Library of Congress

Congressional Research Service

Washington, D.C. 20540

November 11, 1975

To: House Government Information and Individual Rights
Subcommittee
Attn: Ted Jacobs

From: American Law Division

Subject: Whether Justice Department Provided Notice of Existence of
Security Risk File Adequate to Meet Requirements of "Privacy
Act of 1974."

This will refer to your request of October 29, 1975, in which you asked whether the Justice Department is required by the "Privacy Act of 1974" (Pub.L. 93-579, December 31, 1974, 88 Stat. 1896, 5 U.S.C. sec. 552a) to provide notice in the Federal Register of the existence of what they describe as an "administrative index" of persons believed to pose a threat to national security.

The "Privacy Act" requires each agency maintaining a system of records, among other things not relevant to this report, to publish at least annually in the Federal Register a "notice of the existence and character of the system of records" which shall include factors such as the name and location of the system, categories of individuals whose records are maintained in the system, categories of records maintained in the system, routine uses to which the records are put, and the policies and practices of the agency with regard to storage, retrievability, access, retention and disposal of the records. 5 U.S.C. §552a(c)(4).

The existence of the "index" was disclosed to the House Civil Liberties Subcommittee in a memorandum by F.B.I. Director Clarence M. Kelley declassified and released by the Subcommittee on October 22, 1975.

The system contains the names of more than 1200 persons who were described as having

*exhibited a willingness or capability of engaging in treason, rebellion, sabotage, espionage, assassination of government officials, terrorism, guerilla warfare or other acts which would result in interference with or a threat to the survival of national, state or local government. New York Times, October 23, 1975, p. 13; Washington Post, October 24, 1975, p. A2, quoting from FBI Memorandum.

The Justice Department did not provide separate notice for this "administrative index" in its annual "Notices of Systems of Records" published in the Federal Register on August 27, 1975, in accordance with the requirements of Sec. 3(e)(4) of the "Privacy Act" (5 U.S.C. sec. 552 (e) (4)). The Department has claimed that since these records are duplicates of some of the records contained in the larger "F.B.I. Central Records System," it is not a separate system. It is contended that since notice was given of the central files system from which all security risk records were acquired (see 40 Fed. Reg. 38768, August 27, 1975), the "Privacy Act" notice requirement had been fulfilled and a separate notice need not be given to duplicates of part of the system and the specialized security risk index with which portions of the whole file could be retrieved.

An examination of a description of the types of records involved, the language and history of the "Privacy Act", and the authoritative interpretation of that Act provided by the guidelines issued by the Office of

Management and the Budget for implementation of the Act* indicate that the Justice Department is required by the "Privacy Act" to publish clear notice of the existence of the system of records listing persons considered to pose a danger to the national security even though the records comprising the system are also included in the noticed "F.B.I. Central Records System." As will be shown by this memorandum, this list meets the Act's definition of a system of records which is inadequately described in the notice for the "Central Records System."

The so-called "index" is comprised of cards on which are printed the names, background information, file numbers and alleged activity in which the individual is engaged which provide the rationale for defining the subject as a security threat. The individual cards would clearly be "records" under the "Privacy Act" since each one is "a collection, or grouping of information about an individual that is maintained by an agency, including but not limited to his...criminal or employment history and that contains his name, or the identifying number... or other identifying particular assigned to the individual..." 5 U.S.C. sec. 552a(a)(4). The security file would also constitute a "system of records" under the Act--"a group

*Sec. 6 of the "Privacy Act" requires the Office of Management and Budget to "develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code" and to "provide continuing assistance to and oversight of implementation of the provisions of such section by agencies."

of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." 5 U.S.C. sec. 552a(a)(5). Even if the records could only be retrieved from the central file, the existence of an index alone, with which those records involving security risks could be segregated from the larger collection, would constitute a system of records.

Since this information is clearly covered by the "Privacy Act," the crucial remaining issue is whether this system of records is a separate system requiring separate notice or is merely part of the "F.B.I. Central Records Systems." If the records are determined to be only a component of the larger central records, then a determination would have to be made as to whether the published notice adequately described this component.

Although the agencies are given wide discretion in defining what constitutes a separate system, the fact that all of the records in one system were derived from another system does not necessarily mean, as the Justice Department asserts, that the smaller collection of records is not a separate system. The OMB guidelines conclude that

The purpose(s) of a system is the most important criterion in determining whether a system is to be treated as a single system or several systems for the purposes of the Act. If each of several groupings of agency records is used for a unique purpose or set of purposes, . . . each may appropriately be treated as a separate system. 40 Fed. Reg. 28962-28963 (July 9, 1975).

The Federal Register notice of the "F.B.I. Central Records System" in which the security system is purported to be included provides some evidence that the security list is distinctive from the other files in the index. The categories of individuals included in the Central system are described as:

- a. Individuals who relate in any manner to official F.B.I. investigations including, but not limited to suspects, victims, witnesses and close relatives and associates that are relevant to an investigation.
- b. Applicants for and current and former personnel of the F.B.I.... or persons related to personnel matters.
- c. Applicants for and appointees to sensitive positions in the United States Government and persons...considered relevant to the investigation.
- d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record information, including general correspondence...
- e. Individuals, associated with administrative operations or services including...contractors..

Only one of the above categories, "a", would encompass the type of record included in a "security watch system." As can be seen above, category "a" includes a wide range of criminal suspects, convicts, victims and witnesses. The kidnapper, bank robber and their victims and witnesses to their crimes, in most cases, would differ substantially from the 1200 persons who, because of characteristics that the F.B.I. believes make them dangerous to the national security, can be accessed from the central

records for special forms of political surveillance or other treatment distinctive from other types of suspects.

The unique characteristics of the subjects of the national security threat list are emphasized by the origins of this system which clearly demonstrate that it was created for a unique purpose that sets it apart from other criminal or personnel files. Its nucleus was developed prior to 1971 when the F.B.I. maintained a detention list of persons who, under the authority of the "Internal Security Act of 1950," Ch 1024, title II, §100-116, 64 stat. 1019, Sept. 23, 1950, would be subject to incarceration in the event of a national emergency. The Justice Department has claimed that this index was discontinued in September, 1971, after that Act was repealed, but some F.B.I. sources have said that names in the old system, which at its peak contained as many as 15,000 names, were included in the present index. See New York Times, *supra*. Even though present law no longer provides specific authority for the incarceration of persons thought to pose a national security threat in case of a national emergency, Director Kelley's memorandum to the House Committee stated that the security threat system was maintained and continuously revised and updated to provide "a record of individuals who would merit close investigative attention pending legal steps by the President to take further action" if there was a national emergency.

The hearings, primarily by the Senate Constitutional Rights Subcommittee and the House Government Operations Committee, reports and debate that preceded enactment of the "Privacy Act of 1974" made abundantly clear Congress' concern over the effect of secret files on the rights

of individuals who could not even know that potentially damaging information existed and was being widely disseminated, much less challenge information believed to be erroneous. In the "Privacy Act," Congress specifically found

in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies. sec 2(a)(5).

The first purpose of the Act was stated to be to:

permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies; sec. 2(b)(1).

For this reason, although many sensitive systems, such as C.I.A. and law enforcement systems, are exempt from requirements such as those permitting an individual to see his own record, no system is exempt from the notice requirements of section 3(e)(4)(B), the requirement that all agencies must report "the categories of individuals on whom records are maintained in the system."

The OMB guidelines clearly recognize the purpose of the notice requirement when they state:

Agencies should keep in mind that a major purpose of the Act is not the restructuring of existing systems of records, but rather the publicizing of what those systems are and how they are used. 40 Fed. Reg. 28963 (July 9, 1975).

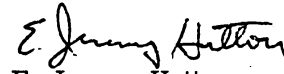
Congress showed particular sensitivity to and concern over records that could be considered to endanger First Amendment rights. See,

for example Senate Judiciary Committee, Subcommittee on Constitutional Rights, Hearings on S. 2318, "The Freedom from Surveillance Act of 1973." 93rd Cong., 2nd Sess., April 9, 10, 1974. The "Privacy Act" specifically prohibits the maintenance of records "Describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute...or unless pertinent to and within the scope of an authorized law enforcement activity." sec. 3(e)(7).

Even though F.B.I. Director Kelly's memorandum to the House Judiciary Subcommittee denied that subjects were included in the security system solely because of their stated opposition to Government policies or because of their membership in a subversive organization, it is likely that a person's political views or associations would have some influence over whether he was included in the system. The old security index was reported by the Times to have at one time contained the names of virtually all known members of the Communist Party. Because of the large number of Communists included in the original system, it is likely that many members of the Communist Party are still included in the system. While the maintenance of national security file may be justifiable as a law enforcement activity, Congress' sensitivity to this type of political intelligence file would indicate an intention that clear notice be provided of its existence.

While the OMB guidelines would permit "a large complex of records" to be treated as a single system, they specify that the "notice and

the procedures may be considerably more complex" than if each small grouping of records were treated as a separate system. 40 Fed.Reg. 28962(July 9, 1975). The notice given does not provide the necessary specificity. The fact that one could read the notice and not suspect that records are maintained within this system on persons who are under surveillance as security risks shows that the notice does not meet the function of alerting the public to existing systems and of informing Congress so that its regulatory function with regard to such personnel information can be preserved. Since this type of record may be more subject to abuse than most routine personnel files and is clearly distinct from other systems of records included in the Central Records, separate notice would be desirable. As a minimum, the law would seem to require that, if the Justice Department were to continue to treat all these records as a unified system, a much clearer and detailed notice be issued, if not a separate notice.


E. Jeremy Hutton
Legislative Attorney



Office of the Attorney General
Washington, D. C. 20530

DEC 19 1975

Bella S. Abzug, Chairwoman
Subcommittee on Government Information
and Individual Rights of the
Committee on Government Operations
Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Abzug:

I have received your letter requesting me to direct the FBI to deliver the interview statements (302 forms) developed in an inquiry into the disposition of files maintained in the office suite of J. Edgar Hoover and also your letter of December 12 regarding the Department's new Office of Professional Responsibility.

In your former letter, you suggest that the confidentiality of the interview statements is not an issue because no confidential informants were involved, "since presumably each person interviewed was an employee or former employee of the FBI." While the individuals interviewed in this inquiry were not informants in the sense that they were compensated for furnishing information relating to an investigation, they did furnish information with an expectation that their very words would be held in confidence. The test is not whether the source of the information was compensated but whether he furnished the information with an expectation of confidentiality. Indeed, in a situation such as this -- an internal investigation -- the concern that you suggested may be absent is really very much present.

In an effort, however, to respond to any questions you may have about the disposition of these files and the conduct of this inquiry, I am asking Director Kelley to designate an official who can serve in a liaison capacity to obtain answers to any questions that may be raised.

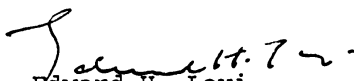
You have also asked about the impetus for my inquiry to the FBI on this matter. As you indicated, in my testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights last February I did refer to the files kept in the former Director's office. I said that Mr. Hoover maintained both official and personal files in his office and that I understood that the material in the personal files was destroyed. I also expressed my view that I would be disturbed at the thought of an FBI Director maintaining files on specific individuals in his own personal offices and informed the Subcommittee that Director Kelley and I both agreed that such files should not be so maintained. As to the inquiry of June 4, this investigation was initiated as a result of discussions between employees of the Department and staff members of the Senate Select Committee who alleged that some of the files removed to the home of Mr. Hoover may have included official files.

Finally, you expressed concern that top officials "who may come under suspicion" were asked to conduct this inquiry. In this case, however, the top official who was responsible for this investigation was Mr. Kelley, who of course was not associated with the Bureau at the time files were removed or destroyed.

As to your letter of December 12, I want to inform you that I have appointed Michael Shaheen as the Counsel on Professional Responsibility. I believe that he is an excellent choice to head this important office.

I hope that these comments are responsive to all of your inquiries.

Sincerely,


Edward H. Levi
Attorney General

Department of Justice
Washington, D.C. 20530

December 23, 1975

Honorable Bella S. Abzug
Chairwoman
Government Information and
Individual Rights Subcommittee
Washington, D. C.

Dear Chairwoman Abzug:

In response to your October 20 letter to
Director Kelley, I am enclosing a memorandum
prepared by the FBI.

Since some of the issues raised in your
letter were also raised in your November 20 and
December 12 letters to the Attorney General, you
may also wish to refer to the Attorney General's
December 19 response.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael M. Uhlmann", with a long, sweeping horizontal stroke at the end.

Michael M. Uhlmann

OFFICE OF THE DIRECTOR



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

December 23, 1975

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
 SUBCOMMITTEE OF THE HOUSE
 COMMITTEE ON GOVERNMENT OPERATIONS

Reference is made to letter to Clarence M. Kelley, Director, Federal Bureau of Investigation, dated October 20, 1975, from Bella S. Abzug, Chairwoman, Government Information and Individual Rights Subcommittee of the House Committee on Government Operations.

In response to question #1 posed in this letter, an inquiry was conducted by the Inspection Division of the Federal Bureau of Investigation concerning the maintenance and disposition of material, including the "Official and Confidential" files, located in the office of former Director J. Edgar Hoover. This inspection was conducted at the request of the Attorney General. A copy of the results of this inspection is enclosed.

With regard to the location of the "Official and Confidential" files, they are now stored in the Special File Room of the Files and Communications Division and indexed into the Bureau's indices. Access to these files is strictly controlled and granted on a need-to-know basis.

With regard to question #2 concerning which "files" were destroyed subsequent to Mr. Hoover's death, we have no evidence that any Bureau files were destroyed. Mr. Hoover issued oral instructions that the "Official and Confidential" files should be turned over to whoever was running the Bureau when he left. No written directives from Mr. Hoover concerning the disposition of these files can be located.



GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS SUBCOMMITTEE OF
THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

With regard to question #3, there was no list made of the materials moved from Mr. Hoover's suite to his residence after his death. As we have stated previously in response to questions #1 and #2, we have no information that Bureau files were taken to his residence.

Concerning destruction of Bureau files, such destruction is governed by statute (Title 44, United States Code, Chapter 33) and regulation (Title 41, Code of Federal Regulations, Subpart 101-11.4). In addition, the Administrator of General Services is directed by statute to establish standards for the selective retention of records of continuing value (Title 44, United States Code, Section 2905). The FBI's destruction of records is done under the provisions of the aforementioned laws with the approval of the National Archives and Records Services as provided for under Section 3303, Title 44, United States Code. No information was developed during this Bureau's inspection inquiry into the "Official and Confidential" files indicating that personnel of this Bureau caused the FBI files to be removed, reproduced or destroyed.

Enclosure

MR. CLARENCE M. KELLEY,
Director, Federal Bureau of Investigation,
Washington, D.C.

DEAR DIRECTOR KELLEY: This is in further reference to my letter to you dated October 17, 1975, regarding this Subcommittee's hearing to be held on October 28, 1975. As you know, our inquiry will deal with FBI record-keeping systems, including the general matter of maintenance and destruction of files.

You will recall that you and Attorney General Levi testified before the Subcommittee on Civil and Constitutional Rights on February 27, 1975, on the "Official and Confidential" files retained by former Director J. Edgar Hoover in his office suite. In his testimony, the Attorney General stated (pp. 8 of printed hearings) that: "These files were removed from Mr. Hoover's office suite following his death and taken to an adjoining office occupied by the then Associate Director of the FBI." The Attorney General further stated (at p. 10) that "other files, personal files which were in the Director's office, but were taken care of in a different way, his personal correspondence. My understanding is they were destroyed."

There have also been varying and conflicting press accounts dealing with the removal and/or destruction of Mr. Hoover's files shortly after his death and after the death of Clyde A. Tolson. For example, the New York Times on June 7, 1975, reported: "Several past and present FBI officials said they understood that Mr. Tolson, J. P. Mohr, and another Hoover associate, and various Bureau secretaries, including Helen W. Gandy . . . spent 'weeks' in the house going through the materials that had been removed." It is further stated in that article that ". . . it was Mr. Mohr who had originally 'engineered' the transfer of documents from the Bureau's headquarters to Mr. Hoover's house . . ." On January 19, 1975, the Washington Post reported that Helen W. Gandy had destroyed many of Mr. Hoover's files before his death as part of a program Hoover had ordered and that on the day of his death she shredded Mr. Hoover's personal correspondence. That article states further: "Several days after Hoover's death, Miss Gandy gave particularly sensitive files occupying 12 filing cabinet drawers to then acting FBI associate director W. Mark Felt a source said." Finally, the April 28, 1975, issue of Newsweek Magazine states: "Following the death last week of Clyde A. Tolson . . . two FBI agents reportedly removed some documents from the late Director's house in Washington where Tolson had been living."

With respect to these statements and the testimony of the Attorney General, we would appreciate it if you would supply us with written answers to the following:

1. Was an investigation conducted by the FBI into the maintenance and present whereabouts of the files kept by former Director J. Edgar Hoover in his office suite? If so, please supply us with copies of any written report, correspondence, memoranda or other writings dealing with such an investigation. Also, please inform me of the present whereabouts of the 164 files about which the Attorney General testified. Under what guidelines or procedures for access are these files maintained? Have they been incorporated into the general agency files? If no, who has access and under what conditions?

2. Please supply a list of the files which were "destroyed" according to the Attorney General's testimony. Also, please supply copies of Mr. Hoover's directives concerning destruction of files maintained in his office. Please explain what procedures have been instituted to prevent future destruction of files by FBI personnel.

3. Has the FBI catalogued the files which were removed from Mr. Hoover's suite to his residence or elsewhere before or after his death? Please supply a copy of the list of such files. Has the FBI, or others with the Bureau's knowledge, had access to the files, presently located at 4936 30th Place, Northwest, Washington, D.C., since Mr. Hoover's or Mr. Tolson's death? If so, has the Bureau or any of its agents caused to be removed, reproduced, or destroyed any of these files?

Sincerely,

BELLA S. ABZUG, *Chairwoman.*

[Reply to the above letter had not been received at time of printing (Feb. 24, 1976). When received, it will be available in the subcommittee files.]

JOHN E. MOSS, CH. CL.
MICHAEL HARRINGTON, MASS.
ANTHONY MAGUIRE, N.J.
ANTHONY MOFFETT, CONN.

ONE HUNDRED FOURTH CONGRESS
Congress of the United States
House of Representatives

GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
WASHINGTON, D.C. 20515

October 20, 1975

Mr. Clarence M. Kelley
Director
Federal Bureau of Investigation
Washington, D. C. 20530

Dear Director Kelley:

This is in further reference to my letter to you dated October 17, 1975, regarding this Subcommittee's hearing to be held on October 28, 1975. As you know, our inquiry will deal with FBI record-keeping systems, including the general matter of maintenance and destruction of files.

You will recall that you and Attorney General Levi testified before the Subcommittee on Civil and Constitutional Rights on February 27, 1975, on the "Official and Confidential" files retained by former Director J. Edgar Hoover in his office suite. In his testimony, the Attorney General stated (p. 8 of printed hearings) that: "These files were removed from Mr. Hoover's office suite following his death and taken to an adjoining office occupied by the then Associate Director of the FBI." The Attorney General further stated (at p. 10) that "other files, personal files which were in the Director's office, but were taken care of in a different way, his personal correspondence. My understanding is they were destroyed."

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before his death as part of a program Hoover had ordered and that on the day of his death she shredded Mr. Hoover's personal correspondence. That article states further: "Several days after Hoover's death, Miss Gandy gave particularly sensitive files occupying 12 filing cabinet drawers to then acting FBI associate director W. Mark Felt a source said." Finally, the April 28, 1975, issue of Newsweek Magazine states: "Following the death last week of Clyde A. Tolson...two FBI agents reportedly removed some documents from the late Director's house in Washington where Tolson had been living."

With respect to these statements and the testimony of the Attorney General, we would appreciate it if you would supply us with written answers to the following:

- ⑦ 1) Was an investigation conducted by the FBI into the maintenance and present whereabouts of the files kept by former Director J. Edgar Hoover in his office suite? If so, please supply us with copies of any written report, correspondence, memoranda or other writings dealing with such an investigation. Also, please inform me of the present whereabouts of the 164 files about which the Attorney General testified. Under what guidelines or procedures for access are these files maintained? Have they been incorporated into the general agency files? If no, who has access and under what conditions?
- ⑧ 2) Please supply a list of the files which were "destroyed" according to the Attorney General's testimony. Also, please supply copies of Mr. Hoover's directives concerning destruction of files maintained in his office. Please explain what procedures have been instituted to prevent future destruction of files by FBI personnel.
- ⑨ 3) Has the FBI catalogued the files which were removed from Mr. Hoover's suite to his residence or elsewhere before or after his death? Please supply a copy of the list of such files. Has the FBI, or others with the Bureau's knowledge, had access to the files, presently located at 4936 30th Place, Northwest, Washington, D.C., since Mr. Hoover's or Mr. Tolson's death? If so, has the Bureau or any of its agents caused to be removed, reproduced, or destroyed any of these files?

Sincerely,

BELLA S. ABZUG
Chairwoman

DELLA G. ARIZO, N.Y., CHAIRWOMAN
 LEO J. RYAN, CALIF.
 JOHN CONYERS, JR., MICH.
 JOHN D. D. MACDONALD, MASS.
 JERRY L. RUDOLPH, CALIF.
 MICHAEL L. HARRINGTON, MASS.
 ARTHUR W. MAZING, N.J.
 ANTHONY MOFFETT, CONN.

SAM STEIGER, ARIZ.
 CLARENCE J. BROWN, OHIO
 PAUL N. McCLOSKEY, JR., CALIF.
 225-3741

NINETY-FOURTH CONGRESS

*Congress of the United States**House of Representatives*GOVERNMENT INFORMATION AND INDIVIDUAL RIGHTS
SUBCOMMITTEE

OF THE

COMMITTEE ON GOVERNMENT OPERATIONS

RAYBURN HOUSE OFFICE BUILDING, ROOM B-349-B-C
 WASHINGTON, D.C. 20515

December 11, 1975

Assistant Director John J. McDermott
 Federal Bureau of Investigation
 9th Street at Pennsylvania Avenue, N.W.
 Room 5829
 Washington, D. C. 20535

Dear Mr. McDermott:

The following questions are submitted pursuant to your understanding with Mr. Jacobs during the Subcommittee's hearing on December 1, 1975, that additional questions would be answered by you in writing for inclusion in the hearing record.

1) Please supply a copy of any written opinion of the Department of Justice concerning the filing under the Privacy Act of the FBI "Central Records System." Please supply copies of all written communications between FBI and the Department of Justice on the general subject of compliance with 5 U.S.C. 552 a(a)(5) and 5 U.S.C. 552 a(c)(4).

2) Was an opinion rendered concerning or relating to the appropriateness or necessity of filing a separate notice for the "administrative index"? For the "Stop Index"? For the "Computerized Telephone Number File"? For the "Agitator Index"? For the lists connected with the "Key Activist" and "Key Extremist" programs? If so, please supply copies. If not, please identify these systems with sufficient detail for a determination to be made by the Department of Justice and the Office of Management and Budget as to whether these indexes fit the definition of "system of records" pursuant to Sections (a)5 and (e)4 of the Privacy Act.

3) State whether the FBI maintains any other list, index, file or other writing similar in purpose, scope or use to the Administrative Index or the other indexes named in question 2.

4) Was consideration given by the FBI to the inclusion of any index or list or "system of records" other than those mentioned in question 2 above?

5) Please supply copies of all written communications between the FBI and the Department of Justice concerning or relating in any way to the FBI's implementation or compliance with Sections (d), (e), (j) and (k) of the Privacy Act.

6) Please supply copies of all written communications between the FBI and the Office of Management and Budget relating to or concerning the general subject of FBI compliance with 5 U.S.C. 552 a(a)(5) and 5 U.S.C. 552 a (e)(4).

7) Please state the number of employees working for the FBI on Freedom of Information and Privacy Act requests. State in detail how the Section is organized, giving the number of employees in each unit and each team, and the duties of each member of the team. Also, please supply the names and titles of the Section Chief, his assistants, the unit chiefs and each team leader. Please supply the telephone listings for each member of the FOI staff. Are typists considered to be part of the FOI-Privacy staff? If not, how many typists do you have assigned solely to the FOI-Privacy staff?

8) State the number of pending Freedom of Information and Privacy Act requests? How many appeals are pending?

9) How are costs for FOI record searches computed? For instance, is the cost per request computed? Is an estimate made of the cost per type of request or per type of search? Are costs of telegrams, telephone calls, evaluation time, etc., as well as index search and file retrieval time included in the calculation of costs?

10) Are all field office files indexed in the central file? Is there a consistent agency policy on disposal of field office files when the field office investigation lasted less than 90 days and did not result in any prosecutions? If so, what is it? If not, how are these records disposed of and who makes the decisions about disposal?

11) Does the FBI handle all searches for records on individuals as privacy searches even when the person has specified FOI request? If no statute is mentioned, how is a request handled?

12) Is there a procedure for looking for a file on appeal when a "no file" response was given in the initial request? How has it been possible to find files on appeal when they weren't found in the original search?

13) Do FOI searches have priority in the Bureau over any other searches for information? If so, which?

14) How are records retrieved for FOI review? Does the reviewer receive the original file in his office, a xerox copy of the file, or does he go somewhere to view the original file?

15) How long does actual retrieval of a file take once index references are found? How long is the period between receipt of an FOI request by the FBI and receipt of the pertinent files by the reviewer?

16) Describe precisely how an FOIA or Privacy Act search for reference to a name in the index is conducted. Has the search procedure changed recently or will it change in the near future? How will the search for name references be narrowed? How long does a search for name references usually take?

17) How are FOI requests for classified material handled? Who has access to review the material? I.e., is review and decision to release handled by a special division is it reviewed by the FOI division? Where is the material stored -- is it stored and referenced with unclassified material? How is it retrieved for review? Is there any substantial difference in the storage, handling and retrieval, copying, etc. or processing time in the FOI process for classified material than for unclassified material?

18) Is there any consideration being given to changing the FOI review process for classified material?

19) What steps have been taken by the FBI to conform to the requirements of 5 U.S.C. 552 a(e) (5), (6) and (7)?

20) As you know, sections (j) and (k) of the Privacy Act are permissive. They do not require that an agency exempt all systems of records which are permitted to be exempted. Please inform me of the reasons, giving as much background and detail as possible, and not repeating the reasons contained in the Federal Register of August 27, 1975, for the exemption by the FBI from each of the following: 5 U.S.C. 552a (c) (3) and (4), (d), (e) (1), (2), and (3), (e) (4) (G) and (H), (e) (5) and (8), (f), (g) and (m). Please state the reason for exemption from each of the aforesaid sections and subsections separately.

21) The filing of the system of records, "FBI Central Records System", contains five "categories of individuals covered by the system." Please state the reasons, giving as much background and detail as possible, and not repeating the reasons contained in the Federal Register of August 27, 1975, for the exemption by the FBI from the sections and subsections referred to in question 20 relating each exemption to each of the five "categories of individuals covered by the system." For example, state the reasons for the exemption from (d) as to each of the categories of individuals covered by the system.

22) You will note that (j) (2) pertains solely to criminal justice records. It would therefore seem that not all records pertaining to all "categories of individuals covered by the system" listed in the Central Records System should be equally treated as exempt pursuant to (j) (2). Please state in detail the manner in which each of the following sections or subsections is justified for exemption under (j) (2): The sections in question are: (c) (4), e (2) and (3), (5) and (8), (g) and (m). Please state the reasons, giving as much background and detail as possible, and not repeating the reasons contained in the Federal Register of August 27, 1975, for exempting each of the aforesaid sections and subsections.

23) Please state the reasons, giving as much background and detail as possible, and not repeating the reasons contained in the Federal Register of August 27, 1975, for the exemption by the FBI from the sections and subsections referred to in question 22, relating each exemption to each of the five "categories of individuals covered by the system."

24) With respect to investigatory material compiled solely for the purpose of determining suitability, etc., pursuant to (k) (5), please state FBI policy regarding confidentiality of information obtained from third parties prior to the effective date of the act. When is information deemed to be furnished under circumstances from which confidentiality can reasonably be inferred? Supply copies of written directives or manuals to FBI employees processing requests of this nature. If none exist, are any being compiled, or will any be compiled?

25) With respect to the same matter inquired into in question 24 above, what is the present policy of the FBI with respect to giving express promises of confidentiality? Supply copies of written directives or manuals on this question to FBI agents conducting investigations.

26) With respect to investigatory material compiled solely for the purpose of determining suitability, etc., pursuant to (k) (5), is it FBI policy to provide a person making a request under the Privacy Act with the material requested even in cases where the identity of the source is withheld?

27) Under what circumstances is it FBI policy that the revelation of the identity of persons interviewed in a suitability check is an invasion of the privacy of the individuals interviewed? Supply copies of written directives or manuals provided to FBI employees processing requests of this nature.

28) Please supply copies of any manuals, guidance memos, or other writings supplied to employees in the FOIA - Privacy Section for use in connection with the performance of their duties under the Act.

29) Describe in detail the nature of the training given to employees of the FOIA-Privacy Section.

30) Please supply copies of all written guidelines, manuals or other writings supplied to FBI employees who prepare summaries or letter memoranda of "raw files". Describe the organization of this section, the number of employees and their training.

31) What procedures are utilized by the FBI to correct information contained in a file or record on an individual if the individual claims that information is inaccurate, misleading or incomplete.

32) Under what conditions may a Bureau employee initiate or conduct a review of file indexes for information about a Member of Congress? About any other person? Are there limitations on the number and rank of FBI employees who may do so?

We would appreciate a reply to the above questions as soon as possible.

With best wishes, I am

Sincerely,

BELLA S. ABZUG
Chairwoman

[NOTE.— As of the date of the printing of this hearing, no reply to the letter of December 11, 1975, had been received by the subcommittee. When it is received, it will be kept in the subcommittee's files.]